



# **Child Support (Assessment) Act 1989**

**No. 124, 1989**

## **Compilation No. 68**

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Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### This compilation

This is a compilation of the *Child Support (Assessment) Act 1989* that shows the text of the law as amended and in force on 11 December 2024 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

### Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the Register for the compiled law.

### Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

### Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the Register for the compiled law.

### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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# **An Act to make provision for determining the financial support payable by parents for their children, and for other purposes**

## **Part 1—Preliminary**

### **1 Short title**

This Act may be cited as the *Child Support (Assessment) Act 1989*.

### **2 Commencement**

- (1) Subject to subsection (2), this Act commences on a day to be fixed by Proclamation.
- (2) If this Act does not commence under subsection (1) within the period of 6 months beginning on the day on which it receives the Royal Assent, it commences on the first day after the end of that period.

### **3 Duty of parents to maintain their children**

- (1) The parents of a child have the primary duty to maintain the child.
- (2) Without limiting subsection (1), the duty of a parent to maintain a child:
  - (a) is not of lower priority than the duty of the parent to maintain any other child or another person; and
  - (b) has priority over all commitments of the parent other than commitments necessary to enable the parent to support:
    - (i) himself or herself; and
    - (ii) any other child or another person that the parent has a duty to maintain; and
  - (c) is not affected by:
    - (i) the duty of any other person to maintain the child; or

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- (ii) any entitlement of the child or another person to an income tested pension, allowance or benefit.

#### 4 Objects of Act

- (1) The principal object of this Act is to ensure that children receive a proper level of financial support from their parents.
- (2) Particular objects of this Act include ensuring:
  - (a) that the level of financial support to be provided by parents for their children is determined according to their capacity to provide financial support and, in particular, that parents with a like capacity to provide financial support for their children should provide like amounts of financial support; and
  - (b) that the level of financial support to be provided by parents for their children should be determined in accordance with the costs of the children; and
  - (c) that persons who provide ongoing daily care for children should be able to have the level of financial support to be provided for the children readily determined without the need to resort to court proceedings; and
  - (d) that children share in changes in the standard of living of both their parents, whether or not they are living with both or either of them; and
  - (e) that Australia is in a position to give effect to its obligations under international agreements or arrangements relating to maintenance obligations arising from family relationship, parentage or marriage.
- (3) It is the intention of the Parliament that this Act should be construed, to the greatest extent consistent with the attainment of its objects:
  - (a) to permit parents to make private arrangements for the financial support of their children; and
  - (b) to limit interferences with the privacy of persons.

#### 4A Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* applies to all offences against this Act.

#### 5 Interpretation—definitions

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

***adjusted taxable income*** has the meaning given by section 43 and subsections 61(1) and 63(1).

***administrative assessment*** means assessment (other than assessment for the purposes of a notional assessment) under Part 5.

***annualised MTAW figure*** has the meaning given by section 5A.

***annual rate*** includes an annual rate of nil.

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

***applicable YTD income amount*** has the meaning given by subsections 63AF(1) and (2).

***application day*** has the meaning given by subsection 54B(2).

***application period*** has the meaning given by:

- (a) for an election made under subsection 60(1)—  
subsection 61(1A); and
- (b) for an election made under subsection 62A(1)—  
subsection 63(2).

***ART*** means the Administrative Review Tribunal.

***ART Act*** means the *Administrative Review Tribunal Act 2024*.

***ATI indexation factor*** has the meaning given by subsection 58AA(1).

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***binding child support agreement*** has the meaning given by section 80C.

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

***care period*** has the meaning given by paragraph 49(1)(a), subparagraph 49(1)(b)(ii), paragraph 50(1)(a) or subparagraph 50(1)(b)(ii).

***carer entitled to child support***, in relation to a child, means:

- (a) in the case of an administrative assessment—a parent, or non-parent carer, of the child who, under the administrative assessment, is entitled to be paid child support in relation to the child; and
- (b) in the case of a child support agreement—has the meaning given by subsection 93(1).

***change of care day*** for a responsible person for a child means:

- (a) if a determination of the responsible person's percentage of care for the child has been revoked under Subdivision C of Division 4 of Part 5—the first day on which the care of the child that was actually taking place ceased to correspond with the responsible person's percentage of care for the child under the determination; or
- (b) if a determination of the responsible person's percentage of care for the child has been suspended under Subdivision C of Division 4 of Part 5—the first day on which the care of the child that was actually taking place ceased to correspond with the responsible person's percentage of care for the child determined for the purposes of subsection 51(4) under the determination; or
- (c) otherwise—the first day on which the care of the child that was actually taking place did not correspond with the responsible person's extent of care under a care arrangement that applies in relation to the child (which might be the first day the care arrangement begins to apply in relation to the child).

***child eligible for administrative assessment*** means a child in relation to whom an application may, under section 24, be made to the Registrar for administrative assessment of child support.

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

***child support agreement*** has the meaning given by section 81.

***child support case***, in relation to a child, is the administrative assessments for child support for all children who are children of both of the parents of the child.

***child support income*** has the meaning given by section 41.

***child support percentage*** has the meaning given by section 55D.

***child support period*** has the meaning given by subsection 7A(1).

***child support terminating event*** has the meaning given by section 12.

***child support year*** means:

- (a) the period starting on the commencing day and ending on the next 30 June; or
- (b) a subsequent financial year.

***claimant***, in relation to family tax benefit, means a person who has made a claim for the benefit, if the claim has not been determined.

***combined child support income*** has the meaning given by section 42.

***commencing day*** means the day on which this Act commences.

***cost percentage*** has the meaning given by section 55C.

***costs of a child*** has the meaning given by section 55H or 55HA (as the case requires).

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**Costs of the Children Table** means the table in clause 1 of Schedule 1 to this Act.

**court exercising jurisdiction under this Act** does not include a court exercising jurisdiction in proceedings under paragraph 79(a).

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

**determined ATI** has the meaning given by paragraph 64AB(2)(a).

**eligible carer** has the meaning given by section 7B.

**eligible child** has the meaning given by Part 3 (Children who may be covered by Act).

**estimated ATI amount** has the meaning given by subsections 64A(3) and 64AD(3).

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

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

**family assistance care determination** has the meaning given by paragraph 54K(1)(b).

**family dispute resolution** has the meaning given by section 10F of the *Family Law Act 1975*.

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

**family tax benefit** has the meaning given by the Family Assistance Act.

**Federal Circuit and Family Court of Australia** means:

- (a) the Federal Circuit and Family Court of Australia (Division 1); or



- (b) the Federal Circuit and Family Court of Australia (Division 2).

***Federal Circuit and Family Court of Australia (Division 1) Rules*** means the Rules of Court made under Chapter 3 of the *Federal Circuit and Family Court of Australia Act 2021*.

***final***, in relation to a decision of a court, has the meaning given by section 144.

***Full Court of the Federal Circuit and Family Court of Australia (Division 1)*** has the same meaning as ***Full Court*** in the *Federal Circuit and Family Court of Australia Act 2021*.

***full-time secondary education***, in relation to a child, means education that is determined by the secondary school at which the child is receiving the education to be full-time secondary education.

***income amount order*** means:

- (a) a determination under Part 6A (departure determinations), or an order under Division 4 of Part 7 (departure orders), that:
- (i) varies the annual rate of child support payable by a parent for a child or for all the children in a child support case by setting that annual rate; or
  - (ii) varies the adjusted taxable income, or the child support income, of a parent by setting that adjusted taxable income or child support income; or
- (b) provisions of a child support agreement that has been accepted by the Registrar that have effect, for the purposes of Part 5, as if they were such an order made by consent.

***income component amounts*** has the meaning given by subsection 60(2).

***income election*** means an election made under subsection 60(1) or 62A(1).

***income percentage*** has the meaning given by section 55B.

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**income support payment** has the meaning given by subsection 66(9).

**Income Tax Assessment Act** means the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997*.

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

**increased care of a child** has the meaning given by section 53B.

**index number** for a quarter has the meaning given by subsection 153A(2).

**interim period** has the meaning given by section 53A.

**last day**, in relation to a child's secondary school year, means:

- (a) if the child is not required to sit an examination—the day determined by the secondary school to be the last day of classes for the school year; and
- (b) if the child is required to sit an examination—the later of:
  - (i) the day determined by the secondary school to be the last day of the period of examinations for the child's year level; and
  - (ii) the day determined by the secondary school to be the last day of classes for the school year.

**last relevant year of income** in relation to a child support period means the last year of income that ended before the start of the period.

Note: For example, in working out Philippe's last relevant year of income for the child support period that began on 1 January 2008, the last relevant year of income is 2006-07.

**liable parent**, in relation to a child, means:

- (a) in the case of an administrative assessment—a parent by whom child support is payable for the child under the administrative assessment; and

- (b) in the case of a child support agreement—has the meaning given by subsection 93(1).

**limited child support agreement** has the meaning given by section 80E.

**lump sum payment provisions** has the meaning given by paragraph 84(1)(e).

**maximum interim period** for a determination under section 49 or 50 of a responsible person's percentage of care for a child is the period beginning on the change of care day for the responsible person and ending at:

- (a) for a determination relating to a court order—the later of:
- (i) the end of the period of 52 weeks starting on the day the court order first takes effect; or
  - (ii) the end of the period of 26 weeks starting on the change of care day; or
- (b) for a determination relating to a written agreement or parenting plan—the end of the period of 14 weeks starting on the change of care day.

**member of a couple** means:

- (a) a person who is legally married to another person and is not living separately and apart from the other person on a permanent or indefinite basis; or
- (b) a person who is living with another person as the partner of the other person on a genuine domestic basis although not legally married to the other person; or
- (c) a person whose relationship with another person (whether of the same sex or a different sex) is registered under a law of a State or Territory prescribed for the purposes of section 2E of the *Acts Interpretation Act 1901* as a kind of relationship prescribed for the purposes of that section, and is not living separately and apart from the other person on a permanent or indefinite basis.

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**minimum annual rate of child support** in respect of a child support period has the meaning given by subsection 66(5).

**multi-case allowance** has the meaning given by section 47.

**multi-case cap** has the meaning given by section 55E.

**multi-case child costs** has the meaning given by step 3 of the method statement in section 47.

**non-parent carer** of a child means an eligible carer of the child who is not a parent of the child.

**non-periodic payment provisions** has the meaning given by paragraph 84(1)(d).

**notional assessment** has the meaning given by section 146E.

**otherwise than in the form of periodic amounts**, in relation to child support, means child support that is not paid as periodic amounts, and includes child support paid in the form of:

- (a) a lump sum payment; and
- (b) a transfer or settlement of property.

Note: **Periodic amount** is defined in section 4 of the Registration and Collection Act.

**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.

**parent:**

- (a) when used in relation to a child who has been adopted—means an adoptive parent of the child; and
- (b) when used in relation to a child born because of the carrying out of an artificial conception procedure—means a person who is a parent of the child under section 60H of the *Family Law Act 1975*; and
- (c) when used in relation to a child born because of a surrogacy arrangement—includes a person who is a parent of the child under section 60HB of the *Family Law Act 1975*.

**parenting plan** has the meaning given by section 63C of the *Family Law Act 1975*.

**partial year income amount** has the meaning given by:

- (a) for an election made under subsection 60(1) to which subsection 60(3) applies—step 2 of the method statement in subsection 60(4); and
- (b) for an election made under subsection 62A(1)—step 2 of the method statement in that subsection.

**partner**, in relation to a person who is a member of a couple, means the other member of the couple.

**pension PP (single) maximum basic amount** is the sum of:

- (a) the amount that would have been a person's maximum basic rate under Module B of the Pension PP (Single) Rate Calculator if the person was receiving parenting payment under the *Social Security Act 1991*; and
- (b) the amount that would have been the person's pension supplement under Module BA of the Pension PP (Single) Rate Calculator if the person was receiving parenting payment under that Act.

**percentage of care**, in relation to a responsible person for a child, means the responsible person's percentage of care for the child that is determined by the Registrar under Subdivision B of Division 4 of Part 5.

**provisional notional assessment** means a provisional notional assessment made under section 146B.

**reduced care of a child** has the meaning given by section 54.

**Registrar** means the Child Support Registrar.

**Registration and Collection Act** means the *Child Support (Registration and Collection) Act 1988*.

**regular care** has the meaning given by subsection (2).

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***related Federal Circuit and Family Court of Australia (Division 2) Rules*** has the same meaning as in the *Family Law Act 1975*.

***relative*** has a meaning affected by subsection (4).

***relevant dependent child***, in relation to a parent, means a child or step-child of the parent, but only if:

- (a) the parent has at least shared care of the child or step-child during the relevant care period; and
- (b) either:
  - (i) the child or step-child is under 18; or
  - (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
- (c) the child or step-child is not a member of a couple; and
- (d) in the case of a step-child:
  - (i) an order is in force under section 66M of the *Family Law Act 1975* in relation to the parent and the step-child; or
  - (ii) the parent has the duty, under section 124 of the *Family Court Act 1997* of Western Australia, of maintaining the step-child; and
- (e) in the case of a child—the parent is not assessed in respect of the costs of the child (except for the purposes of step 4 of the method statement in section 46).

***relevant dependent child amount*** has the meaning given by section 46.

***relevant June quarter*** has the meaning given by subsection 5A(2).

***remaining period*** has the meaning given by:

- (a) for an election made under subsection 60(1) to which subsection 60(3) applies—step 1 of the method statement in subsection 60(4); and
- (b) for an election made under subsection 62A(1)—step 1 of the method statement in that subsection.

**reportable fringe benefits total** for a year of income for a person who is an employee (for the purposes of the *Fringe Benefits Tax Assessment Act 1986*, whether it applies of its own force or because of the *Fringe Benefits Tax (Application to the Commonwealth) Act 1986*) means the employee's reportable fringe benefits total (as defined in the *Fringe Benefits Tax Assessment Act 1986*) for the year of income.

**resident of Australia** has the meaning given by section 10.

**responsible person** for a child means a parent or non-parent carer of the child.

**secondary school** means a school, technical and further education institution or any other educational institution at which full-time secondary education is provided.

**self-support amount** has the meaning given by section 45.

**separated** has the meaning given by section 9.

**shared care** has the meaning given by subsection (3).

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

**start day** for an income election means the day specified in the notice of the income election under subsection 60(8) or 62A(5) as the start day for the income election.

**takes reasonable action to participate in family dispute resolution** has the meaning given by subsection 53A(3).

**target foreign income** has the meaning given by section 5B.

**taxable income** has the meaning given by sections 56 and 57.

**tax free pension or benefit** means any of the following pensions or benefits:

- (a) a disability support pension under Part 2.3 of the *Social Security Act 1991*;

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- (c) a carer payment under Part 2.5 of the *Social Security Act 1991*;
  - (d) an invalidity service pension under Division 4 of Part III of the *Veterans' Entitlements Act 1986*;
  - (e) a partner service pension under Division 5 of Part III of the *Veterans' Entitlements Act 1986*;
  - (f) income support supplement under Part IIIA of the *Veterans' Entitlements Act 1986*;
- to the extent to which the payment:
- (h) is exempt from income tax; and
  - (i) is not a payment by way of bereavement payment, pharmaceutical allowance, rent assistance, language, literacy and numeracy supplement or remote area allowance; and
  - (j) if the payment is a payment under the *Social Security Act 1991*—does not include tax-exempt pension supplement (within the meaning of subsection 20A(6) of that Act); and
  - (k) if the payment is a payment under the *Veterans' Entitlements Act 1986*—does not include tax-exempt pension supplement (within the meaning of subsection 5GA(5) of that Act).

**termination agreement** has the meaning given by section 80D.

**this Act** includes the regulations.

**underestimated an income amount** has the meaning given by subsections 64AF(2) and (3).

**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*).

**Definitions of regular care and shared care**

- (2) A person has **regular care** of a child if the person's percentage of care for the child during a care period is at least 14% but less than 35%.



- (3) A person has *shared care* of a child if the person's percentage of care for the child during a care period is at least 35% but not more than 65%.

*Relatives*

- (4) For the purposes of section 26A and subparagraph 150(4E)(b)(ii), the relatives of a person are taken to include the following (without limitation):
- (a) a partner of the person;
  - (b) someone who is a parent of the person, or someone of whom the person is a parent, because of the definition of *parent* in this section;
  - (c) anyone else who would be a relative of the person if someone mentioned in paragraph (a) or (b) is taken to be a relative of the person.

**5A Definition of *annualised MTAW figure***

- (1) The *annualised MTAW figure* for a relevant June quarter means the figure that is 52 times the amount set out for the reference period in the quarter under the headings "Average Weekly Earnings—Trend—Males—All Employees Total Earnings" in a document published by the Australian Statistician entitled "Average Weekly Earnings, Australia".
- (2) The *relevant June quarter*, in relation to a child support period, means the quarter ending on 30 June of the last calendar year ending before the child support period begins.
- (3) If at any time (whether before or after the commencement of this section), the Australian Statistician publishes the amount referred to in subsection (1):
- (a) under differently described headings (the *new headings*); or
  - (b) in a document entitled otherwise than as described in subsection (1) (the *new document*);
- then the annualised MTAW figure is to be calculated in accordance with subsection (1) as if the references to:

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- (c) “Average Weekly Earnings—Trend—Males—All Employees Total Earnings”; or
  - (d) “Average Weekly Earnings, Australia”;
- were references to the new headings and/or the new document, as the case requires.
- (4) For the purposes of this section, the *reference period* in a particular quarter is the period described by the Australian Statistician as the pay period ending on or before a specified day that is the third Friday of the middle month of that quarter.
  - (5) If:
    - (a) the Australian Statistician publishes the amount (the *later amount*) referred to in subsection (1) for a relevant June quarter; and
    - (b) the later amount is published in substitution for such an amount for that quarter that was previously published by the Australian Statistician or that was applicable because of subsection (7);the publication of the later amount is to be disregarded for the purposes of this Act.

*Determination of amount by Minister*

- (6) If the Australian Statistician has not published the amount referred to in subsection (1) for a relevant June quarter before the end of the first 30 September after the end of that quarter, the Minister may, by legislative instrument, determine an amount for that quarter.
- (7) If the Minister does so, the amount referred to in subsection (1) for that quarter is taken to be the amount determined in the instrument under subsection (6) for that quarter.

Note: The annualised MTAWWE figure for that quarter will be 52 times the amount that is taken to be the amount referred to in subsection (1) for that quarter.

**5B Definition of target foreign income**

- (1) A parent's **target foreign income** for a year of income is:
  - (a) the amount of the parent's foreign income (as defined in section 10A of the *Social Security Act 1991*) for the year of income that is neither:
    - (i) taxable income; nor
    - (ii) received in the form of a fringe benefit (as defined in the *Fringe Benefits Tax Assessment Act 1986*, as it applies of its own force or because of the *Fringe Benefits Tax (Application to the Commonwealth) Act 1986*) in relation to the parent as an employee (as defined in the *Fringe Benefits Tax Assessment Act 1986*) and a year of tax; and
  - (b) any amount of income that is not covered by paragraph (a) that is exempt from tax under section 23AF or 23AG of the *Income Tax Assessment Act 1936*, reduced (but not below nil) by the total amount of losses and outgoings (except capital losses and outgoings) incurred by the parent in deriving that exempt income.
- (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.
- (2) If it is necessary, for the purposes of this Act, to work out an amount of foreign income expressed in a foreign currency received in a year of income, the amount in Australian currency is to be worked out using the market exchange rate for 1 July in that year of income.
- (3) If there is no market exchange rate for 1 July in the year of income (for example, because of a national public holiday), the market exchange rate to be used is the market exchange rate that applied on the last working day immediately before that 1 July.
- (4) For the purposes of this section, the appropriate market exchange rate on a particular day for a foreign currency is:

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- (a) if there is an on-demand airmail buying rate for the currency available at the Commonwealth Bank of Australia at the start of business in Sydney on that day and the Secretary determines that it is appropriate to use that rate—that rate; or
- (b) in any other case:
  - (i) if there is another rate of exchange for the currency, or there are other rates of exchange for the currency, available at the Commonwealth Bank of Australia at the start of business in Sydney on that day and the Secretary determines that it is appropriate to use the other rate or one of the other rates—the rate so determined; or
  - (ii) otherwise—a rate of exchange for the currency available from another source at the start of business in Sydney on that day that the Secretary determines it is appropriate to use.

### **6 Interpretation—expressions used in Registration and Collection Act**

Unless the contrary intention appears, expressions used in this Act, and in the Registration and Collection Act, have the same respective meanings as in that Act.

### **7 Interpretation—expressions used in Part VII of Family Law Act**

Unless the contrary intention appears, expressions used in this Act, and in Part VII of the *Family Law Act 1975*, have the same respective meanings as in that Part.

#### **7A Meaning of *child support period***

*What is a child support period?*

- (1) A ***child support period*** is a period that:
  - (a) starts at a time described in subsection (2); and
  - (b) ends at the time described in subsection (3) that occurs soonest after the start of the period.

Note: Subsections (5) to (8) provide some examples of child support periods. The examples are not exhaustive: see section 15AD of the *Acts Interpretation Act 1901*.

*When does a child support period start?*

- (2) Each of the following times is the start of a child support period:
- (a) the beginning of the day on which an application for an administrative assessment of the child support payable for a child is properly made under Part 4;
  - (b) the beginning of the day mentioned in paragraph 93(1)(g) (child support payable under a child support agreement accepted by Registrar);
  - (c) the start of the first day for which a child support agreement described in section 34B is to affect the rate of child support payable for a child;
  - (d) immediately after the end of the preceding child support period that relates to child support payable for the child (whether it was a period starting as described in paragraph (a), (b) or (c) or this paragraph).

Note: Despite paragraph (2)(a), a child support period might not start if a non-parent carer applies for an administrative assessment of child support during a child support period (see section 40B).

*End of the child support period*

- (3) The child support period ends at whichever of the following times occurs soonest after the start of the period:
- (a) the time 15 months after the period started;
  - (b) the end of the calendar month during which the Registrar makes an assessment relating to the annual rate of child support payable for the child as required by section 34A (assessment when new tax figure is available);
  - (c) the time immediately before the day mentioned in paragraph 93(1)(g) (child support payable under a child support agreement accepted by Registrar);

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- (d) the end of the day immediately before the first day for which a child support agreement described in section 34B is to affect the rate of child support payable for the child.

*Examples*

- (4) Subsections (5), (6), (7) and (8) merely give a series of examples of the operation of the rules in subsections (1), (2) and (3). The examples involve Mary and Peter. Mary cares for their child and, on 8 June 2000, makes an application under Part 4 and receives a child support assessment for Peter to pay her child support for the child.

*Example—initial child support period resulting from application under Part 4*

- (5) On 20 October 2000, the Registrar makes a new administrative assessment based on an assessment under the income tax law of Peter's taxable income for the 1999-2000 year of income (as required by section 34A). The first child support period starts on 8 June 2000 and ends at the end of 31 October 2000, and the second starts on 1 November 2000.

*Example—end of child support period if new taxable income not available within 15 months*

- (6) If no assessment of the taxable income of Mary or Peter for the 1999-2000 or the 2000-2001 year of income had been made under the income tax law before the end of 7 September 2001, the first child support period would start on 8 June 2000 and end at the end of 7 September 2001 (15 months after it started).

*Example—child support agreement ends existing child support period and starts a new one*

- (7) If Mary and Peter make a child support agreement to influence the annual rate of child support on and after 15 September 2000:
- (a) the child support period that started on 8 June 2000 ends at the end of 14 September 2000; and

- (b) a new child support period starts on 15 September 2000.

*Example—child support period for child support agreement setting child support rate lasts 15 months*

- (8) If the child support agreement set the rate of child support payable for the next 2 years (so section 34A did not require the Registrar to make an administrative assessment on 20 October 2000 as described in subsection (5)), the child support period that started on 15 September 2000 would end 15 months later at the end of 14 December 2001 (unless Mary and Peter made another child support agreement to affect the rate of child support payable for a day before 15 December 2001).

### **7B Meaning of *eligible carer***

- (1) In this Act, ***eligible carer***, in relation to a child, means a person who has at least shared care of the child.
- (2) Despite subsection (1), if:
- (a) a person cares for a child; and
  - (b) the person is neither a parent nor a legal guardian of the child; and
  - (c) a parent or legal guardian of the child has indicated that he or she does not consent to the person caring for the child;
- then the person is not an eligible carer in relation to the child unless it would be unreasonable in the circumstances for a parent or legal guardian of the child to care for the child.
- (3) For the purposes of subsection (2), it is unreasonable for a parent or legal guardian to care for a child if:
- (a) the Registrar is satisfied that there has been extreme family breakdown; or
  - (b) the Registrar is satisfied that there is a serious risk to the child's physical or mental wellbeing from violence or sexual abuse in the home of the parent or legal guardian concerned.

### **9 Interpretation—meaning of *separated***

For the purposes of this Act, the parents of a child are to be taken to have separated in circumstances in which the parties to a marriage are, under the *Family Law Act 1975*, taken to have separated.

### **10 Interpretation—meaning of *resident of Australia***

For the purposes of this Act, a person is a resident of Australia on a day if on that day the person is a resident of Australia for the purposes of the *Income Tax Assessment Act 1936*.

### **12 Interpretation—happening of child support terminating events**

- (1) A child support terminating event happens in relation to a child if:
- (a) the child dies; or
  - (b) the child ceases to be an eligible child under regulations made under subsection 22(1); or
  - (c) the child turns 18; or
  - (d) the child is adopted; or
  - (e) the child becomes a member of a couple; or
  - (f) none of the following subparagraphs applies any longer in relation to the child:
    - (i) the child is present in Australia;
    - (ii) the child is an Australian citizen;
    - (iii) the child is ordinarily resident in Australia; or
  - (g) the circumstances described in subsection 30AA(1) of the Registration and Collection Act apply in relation to the child.

Note: Paragraph (1)(c) may be affected by section 151C (which deals with continuing administrative assessments and child support agreements beyond a child's 18th birthday in certain situations).

- (2) 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 the person dies.



- (2AA) A child support terminating event happens in relation to a child if:
- (a) both of the parents of the child are not eligible carers of the child; and
  - (b) there are no non-parent carers entitled to be paid child support in relation to the child; and
  - (c) if paragraphs (a) and (b) are met because:
    - (i) all persons who were eligible carers of the child ceased to be eligible carers of the child; and
    - (ii) a parent who was not an eligible carer of the child would have become an eligible carer of the child but for subparagraph 54F(3)(b)(i);the Registrar or Secretary is notified, or otherwise becomes aware, of the matter in subparagraph (c)(ii) more than 26 weeks after the relevant change of care day.
- (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.
- (3) A child support terminating event happens in relation to a person who is a liable parent in relation to a child if:
- (a) the person dies; or
  - (b) the person ceases to be a resident of Australia.
- (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
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- (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.
- (4) A child support terminating event happens in relation to a child and the persons who are respectively a carer entitled to child support and a liable parent in relation to the child if:
- (a) either of the following subparagraphs applies in relation to the child and those persons:
    - (i) the carer entitled to child support or the liable parent elects by a notice that complies with section 151 (election to end administrative assessment) that the liability of the liable parent to pay or provide child support for the child to the carer entitled to child support is to end from a specified day;
    - (ii) the Registrar accepts a child support agreement made in relation to the child between the carer entitled to child support and the liable parent, and the agreement includes provisions under which the liability of the liable parent to pay or provide child support for the child to the carer entitled to child support is to end from a specified day; and
  - (b) the specified day arrives.

- (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.
- (5) A child support terminating event happens in relation to a child and the child's parents if the parents become members of the same couple for a period of 6 months or more.

*References to child support terminating events in child support agreements*

- (6) A reference in a child support agreement to a child support terminating event under this Act (however described) is taken not to include a reference to a child support terminating event under subparagraph 12(4)(a)(i).

## **12A Use of computer programs to make decisions**

- (1) The Human Services Secretary may arrange for the use, under the Registrar's control, of computer programs for any purposes for which the Registrar may make decisions under this Act.

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- (2) A decision made by the operation of a computer program under an arrangement made under subsection (1) is taken to be a decision made by the Registrar.

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

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

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

*Extension of Act to Western Australia*

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

*Application of Act to Territories*

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

*Limitations on extension of Act to States*

- (4) This Act extends to a State because of subsection (1) or (2) only for so long as there is in force:
- (a) an Act of the Parliament of the State by which there is referred to the Parliament of the Commonwealth:
    - (i) the matter of the maintenance of exnuptial children; or
    - (ii) matters that include that matter; or

- (b) a law of the State adopting this Act so far as it applies in relation to the maintenance of exnuptial children.

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

- (5) This Act extends to a State at any time because of subsection (1) or paragraph (2)(a) only so far as it makes provision with respect to:
- (a) the matters that are at that time referred to the Parliament of the Commonwealth by the Parliament of the State; or
  - (b) matters incidental to the execution of any power vested by the Constitution in the Parliament of the Commonwealth in relation to those matters.

- (5A) The Parliament of the Commonwealth intends that this Act, so far as it is amended by one or more other Acts in relation to the maintenance of exnuptial children, not extend to Western Australia, unless and until one of the following events occurs:

- (a) the Parliament of Western Australia refers to the Parliament of the Commonwealth the matter of the maintenance of exnuptial children or matters that include that matter;
- (b) Western Australia adopts this Act, as so amended.

- (5B) The Parliament of the Commonwealth also intends that, unless and until one of those events occurs, this Act continue to extend to Western Australia in relation to the maintenance of exnuptial children as if those amendments had not been made.

Note: If this Act is amended by one or more other Acts in relation to the maintenance of exnuptial children, unless and until one of the events mentioned in subsection (5A) occurs, there are effectively 2 versions of this Act that apply in Australia. This Act, as amended, applies:

- (a) in all States and Territories in relation to children of marriages; and
- (b) in all States and Territories, except Western Australia, in relation to exnuptial children.

This Act continues to apply in Western Australia in relation to exnuptial children as if those amendments had not been made.

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- (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.

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

- (1) Without prejudice to its effect apart from this section, this Act so far as it relates to the maintenance of children also has effect as provided by this section.
- (2) This Act so far as it relates to the maintenance of children has, because of this section, the effect that it would have if:
- (a) each reference to a child were, by express provision, confined to a child of a marriage; and
  - (b) each reference to the parents of the child were, by express provision, confined to the parties to the marriage;
- and has that effect only so far as it makes provision with respect to the rights and duties of the parties to the marriage in relation to the child, including, for example, provision with respect to the rights and duties of the parties in relation to the maintenance of the child.
- (3) Nothing in this section affects the operation of the provisions of this Act to the extent that they give effect to an international maintenance arrangement.

### **15 Corresponding State laws**

- (1) If the Minister is satisfied that a law of a State makes adequate and appropriate provision for determining the financial support payable for children, the Minister may, by *Gazette* notice, declare the law to be a corresponding State law.
- (2) If the Minister becomes satisfied that the State law no longer makes adequate and appropriate provision for determining the financial support payable for children, the Minister may, by *Gazette* notice, revoke the declaration of the law as a corresponding State law.

- (3) It is the intention of the Parliament that the Registrar should have and be subject to the powers, functions, rights, liabilities and duties conferred or imposed on the Registrar by a corresponding State law that are additional to those conferred or imposed by this Act.

### **16 Act to bind Crown**

- (1) This Act binds the Crown in right of the Commonwealth, of each of the States, of the Australian Capital Territory and of the Northern Territory.
- (2) Nothing in this Act permits the Crown to be prosecuted for an offence.

### **16A Norfolk Island**

This Act extends to Norfolk Island.

## **Part 2—Counselling**

### **17 Court counselling facilities to be made available**

- (1) A parent of an eligible child, or an eligible carer of an eligible child who is not a parent of the child, may seek the assistance of the counselling facilities of the Federal Circuit and Family Court of Australia or a Family Court of a State.
- (2) An appropriate officer of the Federal Circuit and Family Court of Australia or of the Family Court of the State must, as far as practicable, make the counselling facilities available.



## **Part 3—Children who may be covered by Act**

### **18 Act applies only in relation to eligible children**

This Act applies only in relation to children who are eligible children.

### **19 Children born on or after commencing day are eligible children**

A child born on or after the commencing day is an eligible child.

### **20 Children of parents who separate on or after commencing day are eligible children**

- (1) Where:
  - (a) the parents of a child born before the commencing day have cohabited; and
  - (b) the parents separate on or after the commencing day; the child is an eligible child.
- (2) Subsection (1) applies in relation to the child whether or not the parents:
  - (a) are or were at any time legally married; or
  - (b) have separated on an earlier occasion; or
  - (c) have resumed cohabitation.

### **21 Children with a brother or sister who is an eligible child are eligible children**

Where:

- (a) a child would, apart from this section, not be an eligible child; and
- (b) another child is born to the parents of the first-mentioned child on or after the commencing day; the first-mentioned child is an eligible child.

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**22 Exclusion of certain children from coverage of Act**

- (1) The regulations may provide that children who are under the care (however described) of a person under a child welfare law are not eligible children.
- (2) Sections 19, 20 and 21 have effect subject to any regulations made under subsection (1).

## **Part 4—Applications to Registrar for administrative assessment of child support**

### **Division 1—Application requirements**

#### **23 Application requirements generally**

An application for administrative assessment of child support is properly made if it complies with the following provisions:

- (a) section 24 (Children in relation to whom applications may be made);
- (b) section 25 (Persons who may apply—parents);
- (c) section 25A (Persons who may apply—non-parent carers);
- (d) Section 27 (Formal requirements for applications).

#### **24 Children in relation to whom applications may be made**

- (1) Application may be made to the Registrar for administrative assessment of child support for a child only if:
  - (a) the child is:
    - (i) an eligible child; and
    - (ii) under 18 years of age; and
    - (iii) not a member of a couple; and
  - (b) except in a circumstance referred to in subsection (2), either or both of the following subparagraphs applies or apply in relation to the child:
    - (i) the child is present in Australia on the day on which the application is made;
    - (ii) the child is an Australian citizen, or ordinarily resident in Australia, on that day.
- (2) Paragraph (1)(b) does not apply to an application for administrative assessment of child support if:
  - (a) all of the following apply:

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- (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.

**25 Persons who may apply—parents**

A parent (the *applicant*) of a child may apply to the Registrar under this section for administrative assessment of child support for the child if:

- (a) the applicant applies for both parents to be assessed in respect of the costs of the child; and
- (b) the applicant is not living with the other parent as his or her partner on a genuine domestic basis (whether or not legally married to the other parent); and
- (c) the applicant complies with any applicable requirements of section 26 (dealing with joint care situations) and section 26A (dealing with children cared for under child welfare laws); 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.

**25A Persons who may apply—non-parent carers**

A person who is not a parent of a child (the *applicant*) may apply to the Registrar under this section for administrative assessment of child support for the child if:

- (a) the applicant is an eligible carer of the child; and

- (b) one of the following also applies:
  - (i) the applicant applies for both parents to be assessed in respect of the costs of the child;
  - (ii) if one parent of the child is neither a resident of Australia nor a resident of a reciprocating jurisdiction—the applicant applies for the other parent to be assessed in respect of the costs of the child;
  - (iii) if the Registrar is satisfied that there are special circumstances—the applicant applies for the other parent to be assessed in respect of the costs of the child;
  - (iv) if one parent of the child is dead—the applicant applies for the other parent to be assessed in respect of the costs of the child; and
- (c) the applicant is not living with either parent as the partner of that parent on a genuine domestic basis (whether or not legally married to that parent); and
- (d) the applicant complies with any applicable requirements of section 26 (dealing with joint care situations) and section 26A (dealing with children cared for under child welfare laws); 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.

## 26 Requirements of applications where there are joint carers

If 2 or more persons (*joint carers*) jointly have care of a child, then only one of the joint carers may apply for administrative assessment of child support for the child. If one of those joint carers is a parent of the child, the joint carer who applies must be that parent.

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**26A Requirements of application if child is cared for under child welfare law**

If a non-parent carer has care (however described) of a child under a child welfare law, the non-parent carer may apply for child support for the child only if the non-parent carer is a relative of the child.

**27 Application for administrative assessment**

An application for administrative assessment of child support must be made to the Registrar in the manner specified by the Registrar.

Note: Section 150A provides for the Registrar to specify the manner in which an application may be made.

**28 Application for child support for 2 or more children made in same form**

If application is made in the same form for administrative assessment of child support for 2 or more children, the form may be treated as if it contained separate applications made for administrative assessment for each of the children.

Note: This provision applies even if the children are in different child support cases.

## **Division 2—Decision on application**

### **29 How decision is to be made**

- (1) Subject to this section, in determining whether an application for administrative assessment of child support complies with sections 24, 25 and 25A, the Registrar may act on the basis of the application and the documents accompanying the application, and is not required to conduct any inquiries or investigations into the matter.
- (2) The Registrar is to be satisfied that a person is a parent of a child only if the Registrar is satisfied:
  - (a) that the person is or was a party to a marriage and the child was born to the person, or the other party to the marriage, during the marriage; or
  - (b) that the person's name is entered in a register of births or parentage information, kept under the law of the Commonwealth or of a State, Territory or prescribed overseas jurisdiction, as a parent of the child; or
  - (c) that, whether before or after the commencement of this Act, a federal court, a court of a State or Territory or a court of a prescribed overseas jurisdiction has:
    - (i) found expressly that the person is a parent of the child; or
    - (ii) made a finding that it could not have made unless the person was a parent of the child; and the finding has not been altered, set aside or reversed; or
  - (d) that, whether before or after the commencement of this Act, the person has, under the law of the Commonwealth or of a State, Territory or prescribed overseas jurisdiction, executed an instrument acknowledging that the person is a parent of the child, and the instrument has not been annulled or otherwise set aside; or
  - (e) that the child has been adopted by the person; or

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- (f) that the person is a man and the child was born to a woman within 44 weeks after a purported marriage to which the man and the woman were parties was annulled; or
  - (g) that the person is a man who was a party to a marriage to a woman and:
    - (i) the parties to the marriage separated; and
    - (ii) after the parties to the marriage separated, they resumed cohabitation on one occasion; and
    - (iii) within 3 months after the resumption of cohabitation, they again separated and afterwards lived separately and apart; and
    - (iv) the child was born to the woman within 44 weeks after the period of cohabitation but after the dissolution of the marriage; or
  - (h) that the person is a man and:
    - (i) the child was born to a woman who cohabited with the man at any time during the period beginning 44 weeks and ending 20 weeks before the birth; and
    - (ii) no marriage between the man and the woman subsisted during any part of the period of cohabitation; or
  - (i) that the person is a parent of the child under section 60H or section 60HB of the *Family Law Act 1975*.
- (3) If:
- (a) 2 or more paragraphs of subsection (2) are relevant to a particular application; and
  - (b) those paragraphs, or some of them, conflict with each other; the paragraph that appears to the Registrar to be the more or most likely to be the correct presumption prevails.

**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



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- (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

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may prescribe actions the overseas authority may take for the person with the person's consent.

**30 Decision on application**

- (1) If the Registrar is satisfied that an application has been properly made for administrative assessment of child support for a child, the Registrar must accept the application.
- (2) If the Registrar is not so satisfied, the Registrar may refuse to accept the application.
- (3) This section is subject to sections 30A and 30B.

**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;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 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 parent by whom, under a determination made under section 29A, child support is reasonably likely to be payable who is a resident of the jurisdiction would not be permitted by the law of the jurisdiction.
- (3) This section has effect despite subsection 29A(3).

**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 liable parent and a carer entitled to child support; 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 carer entitled to child support; and
- (c) either the liable parent or the carer entitled to child support is a resident of a reciprocating jurisdiction;

then the Registrar may determine that the application is taken not to have been properly made.

**31 Requirement to assess child support on acceptance of application**

- (1) If the Registrar accepts an application for administrative assessment of child support for a child, the Registrar must, as quickly as possible:
  - (a) either:
    - (i) if the application is made under section 25—assess both parents in respect of the costs of the child under Part 5; or
    - (ii) if the application is made under section 25A (non-parent carer applications)—assess both parents, or the relevant parent, (as the case requires) in respect of the costs of the child under Part 5; and
  - (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

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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.

**Note:** Part 4A deals with assessments for later child support periods.

- (2) Child support is payable until the day immediately before the day on which a child support terminating event happens in relation to the child, the carer entitled to child support, the liable parent or all 3 of them.

**32 Withdrawal of application by applicant**

- (1) Where:
- (a) a person has made an application to the Registrar for administrative assessment of child support for a child; and
  - (b) the Registrar has not accepted, or refused to accept, the application;

the person may, by notice given to the Registrar, withdraw the application.

- (2) The notice must be given in the manner specified by the Registrar.

**Note:** Section 150A provides for the Registrar to specify the manner in which a notice may be given.

- (4) Where a notice that complies with subsections (2) is given to the Registrar in relation to an application for administrative assessment, the application is to be taken not to have been made.

## **Division 3—Notice of decision**

### **33 Notice to be given to unsuccessful applicant**

- (1) If the Registrar refuses to accept an application for administrative assessment of child support for a child, the Registrar must immediately notify the applicant in writing.

*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.

*Refusals on other grounds*

- (4) If subsection (3) does not apply, the notice must include, or be accompanied by, a statement to the effect that:
- (a) the applicant may, subject to the Registration and Collection Act, object to the decision (the **original decision**); and
  - (b) the applicant may, if aggrieved by a later decision on an objection to the original decision (no matter who lodges the objection), subject to that Act and the ART Act, apply to the ART for review of the later decision.

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### *Validity of decisions*

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

### **34 Giving notice of successful application**

- (1) If the Registrar accepts an application for administrative assessment of child support for a child, the Registrar must notify the applicant and any parent who is to be assessed in respect of the costs of the child.
- (2) The notice must include, or be accompanied by, a statement to the effect that:
- (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
  - (b) in any case:
    - (i) the applicant or a parent who is to be assessed in respect of the costs of the child, may, subject to the Registration and Collection Act, object to the decision (the ***original decision***) (other than because a person is not a parent of the child); and
    - (ii) the applicant or a parent who is to be assessed in respect of the costs of the child, if aggrieved by a later decision on an objection in relation to the original decision (no matter who lodges the objection), may, subject to that Act and the ART Act, apply to the ART for review of the later decision.

## **Part 4A—Assessments of child support for later child support periods**

### **34A Registrar must make assessment when new tax figure is available**

#### *Application of section*

- (1) This section requires the Registrar to assess the annual rate of child support payable in some cases if:
  - (a) child support is payable by a liable parent for a child for a day in a child support period (the *earlier period*); and
  - (b) during the earlier period, an assessment (the *tax assessment*) is made under an Income Tax Assessment Act of the taxable income, or any other component of the adjusted taxable income, of the liable parent or the other parent, for the latest year of income (the *last year*) that ended after the start of the earlier period.

#### *Registrar must make assessment using new tax figures*

- (2) As soon as practicable after the tax assessment is made, the Registrar must assess the annual rate of child support payable for the child for days in a child support period starting on the first day of the next calendar month (after the calendar month in which the Registrar makes the assessment).

#### *When new assessment is not required*

- (3) This section does not require the Registrar to make an assessment if:
  - (a) the Registrar calculates that the tax assessment for the last year could not affect the annual rate of child support payable for the child for a day in a child support period; or

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- (b) the annual rate of child support payable for the child for the first day of the next calendar month is to be worked out without reference to the actual taxable income of the parent mentioned in paragraph (1)(b) because of:
  - (i) a child support agreement between the parents of the child; or
  - (ii) a determination under Part 6A (departure determination); or
  - (iii) an order made by a court under this Act or the Registration and Collection Act; or
- (c) the earlier period will end before the end of the earliest calendar month in which it is practicable for the Registrar to make the assessment mentioned in subsection (2).

Note: In the case of paragraph (3)(c), the Registrar must use the information from the tax assessment to make an assessment for the period starting immediately after the end of the earlier period (unless the information is not relevant to an assessment, because of an agreement, determination or order) (see section 34C).

### **34B Administrative assessment for child support period started by new agreement when support already payable**

- (1) The Registrar must assess the annual rate of child support payable for a child for a day in a child support period if:
  - (a) the Registrar accepts a child support agreement made in relation to the child; and
  - (b) child support is already payable by a parent for the child under an administrative assessment; and
  - (c) the agreement is to affect the annual rate of child support payable for the child.

The Registrar must assess the annual rate immediately after accepting the agreement.

Note 1: Section 95 explains how the provisions of the agreement affect the assessment.

Note 2: If the Registrar makes an assessment under this section, the Registrar must make a provisional notional assessment under section 146B.



- (2) The child support period starts:
- (a) if:
    - (i) the application for acceptance of the agreement was made to the Registrar within 28 days after the day on which the agreement was signed; and
    - (ii) the agreement states that child support is to be payable from a specified day; and
    - (iii) the day specified is not earlier than the day on which child support first became payable under the administrative assessment;on the specified day; or
  - (b) if:
    - (i) the application for acceptance of the agreement was made to the Registrar within 28 days after the day on which the agreement was signed; and
    - (ii) the agreement states that child support is to be payable from a specified day; and
    - (iii) the day specified is earlier than the day on which child support first became payable under the administrative assessment;on the day on which child support first became payable under the administrative assessment; or
  - (c) if:
    - (i) the application for acceptance of the agreement was made to the Registrar within 28 days after the day on which the agreement was signed; and
    - (ii) the agreement does not specify a day from which child support is to be payable;on the day on which the agreement was signed; or
  - (d) otherwise—on the day on which the application was made to the Registrar for acceptance of the agreement.
- (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.

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**34C Administrative assessments for child support periods not started by application or new agreement**

The Registrar must assess under this Act the annual rate of child support payable for a child for days in a child support period either before, or as soon as practicable after, the start of the period unless:

- (a) the period starts when the application is made under Part 4; or
- (b) the period starts on a day mentioned in paragraph 93(1)(g); or
- (c) an assessment of the child support payable for the child for days in the period has already been made as required by section 34A; or
- (d) the period starts on the first day for which a child support agreement described in subsection 34B(1) is to affect the annual rate of child support payable for the child.

Note 1: Section 31 requires the Registrar to make an assessment of child support payable as quickly as possible after accepting an application under Part 4.

Note 2: Subsection 93(2) requires the Registrar to make an assessment of child support payable as soon as practicable after accepting certain child support agreements.

Note 3: If a child support agreement has effect for the purposes of the child support period, it will affect the assessment (see section 95).

## **Part 5—Administrative assessment of child support**

### **Division 1—Preliminary**

#### **35A Simplified outline**

The following is a simplified outline of this Part:

- This Part includes the formulas used for assessing the annual rate of child support payable by a parent for a child for a day in a child support period (other than in cases where that rate is worked out in accordance with a child support agreement, a Registrar’s determination under Part 6A or a court order).
- The Costs of the Children Table published by the Secretary each year (based on the table in Schedule 1 to this Act) sets out the costs to parents of raising children in various age ranges.
- Those costs are to be met by both parents (by paying child support or by caring for their children) according to each parent’s capacity to meet the costs.
- To determine each parent’s capacity to meet those costs, the parents are assessed in respect of the costs of the child.
- Generally, both parents’ income is taken into account in determining each parent’s capacity to meet the costs of their children.
- The formulas also allow child support payable to non-parent carers of children to be worked out.

## **Division 2—The formulas**

### **Subdivision A—Preliminary**

#### **35B Simplified outline**

The following is a simplified outline of this Division:

- The Costs of the Children Table published by the Secretary each year (based on the table in Schedule 1 to this Act) sets out the costs to parents of raising children in various age ranges.
- These costs are to be met by both parents (by paying child support or by caring for their children) according to each parent's capacity to meet the costs.
- To determine each parent's capacity to meet the costs, the parents are assessed in respect of the costs of the child.
- Formulas 1 and 2 apply if both parents' incomes are taken into account in determining each parent's capacity to meet the costs of their children, and each parent only has one child support case.
- Formulas 3 and 4 apply if both parents' incomes are taken into account in determining each parent's capacity to meet the costs of their children, and at least one of the parents has multiple child support cases.
- Formulas 5 and 6 apply if only one parent's income is taken into account in determining the parent's capacity to meet the costs of his or her children (such as because the other parent is not a resident of Australia).
- Formulas 2, 4, 5 and 6 also allow child support payable to non-parent carers of children to be worked out.

- In some cases, the annual rate of child support payable by a parent is assessed under Subdivision B of Division 8 (low income parents and minimum annual rates of child support).

### **35C Application of Part to determine annual rate of child support**

This Part applies in relation to the assessment of child support payable by a parent for a child, subject to:

- (a) any determination made by the Registrar under Part 6A (departure determinations); and
- (b) any order made by a court under Division 4 of Part 7 (departure orders); and
- (c) any provisions of a child support agreement that have effect, for the purposes of this Part and section 142, as if they were such an order made by consent.

### **Subdivision B—Working out annual rates of child support using incomes of both parents in single child support case**

#### **35D Application of Subdivision**

- (1) The annual rate of child support payable for a child for a day in a child support period is assessed under this Subdivision if:
  - (a) both parents of the child are to be assessed in respect of the costs of the child; and
  - (b) both parents are to be assessed only in respect of the costs of:
    - (i) that child; and
    - (ii) any other child in the child support case that relates to that child.
- (2) Subsection (1) does not apply if at least one of the parents is liable to pay child support for a child under an administrative assessment under the law of a reciprocating jurisdiction.

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**35 Formula 1: Method statement using incomes of both parents in single child support case with no non-parent carer**

This is how to work out the annual rate of child support payable for a child for a day in a child support period if no non-parent carer has a percentage of care for the child for the day.

*Method statement*

- Step 1. Work out each parent's child support income for the child for the day (see section 41).
- Step 2. Work out the parents' combined child support income for the child for the day (see section 42).
- Step 3. Work out each parent's income percentage for the child for the day (see section 55B).
- Step 4. Work out each parent's percentage of care for the child for the day (see Subdivision B of Division 4 of Part 5).
- Step 5. Work out each parent's cost percentage for the child for the day (see section 55C).
- Step 6. Work out each parent's child support percentage for the child for the day (see section 55D).
- Step 7. Work out the costs of the child for the day under sections 55G and 55H.
- Step 8. If a parent has a positive child support percentage under step 6, the **annual rate of child support** payable by the parent for the child for the day is worked out using the formula:

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

Note: If a parent's percentage of care for a child is more than 65%, the parent's annual rate of child support for the child is nil (see section 40C).

### **36 Formula 2: Working out annual rates of child support using incomes of both parents in single child support case with a non-parent carer**

- (1) This is how to work out the annual rate of child support payable for a child for a day in a child support period if one or more non-parent carers have a percentage of care for the child for the day.
- (2) Follow steps 1 to 8 of the method statement in section 35 for each parent (disregarding subsection 55D(2) (negative child support percentages)).

#### *Annual rate payable by parent*

- (3) If a parent's (the **first parent's**) child support percentage under step 6 of the method statement in section 35 is positive, then the **annual rate of child support** payable by the first parent for the child for the day is the annual rate of child support for the child worked out under step 8 of the method statement.

#### *Annual rate payable only to non-parent carers*

- (4) If:
  - (a) the second parent's child support percentage is also positive;  
or
  - (b) the second parent's child support percentage is nil or negative, and the second parent does not have at least shared care of the child during the relevant care period;

then, subject to section 40B, the first parent must pay the annual rate of child support that is payable by the first parent for the child under subsection (3) to the non-parent carer or carers in accordance with section 40A.

Note 1: If both parents have a positive child support percentage, then the non-parent carer or carers are entitled to be paid the total of the 2

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annual rates of child support that are payable by the parents for the child.

Note 2: Under section 40B, a non-parent carer of a child is not entitled to be paid child support unless he or she applies under section 25A in relation to the child.

*Annual rate payable to parent and non-parent carer*

- (5) If the second parent's child support percentage is negative, and the second parent has at least shared care of the child during the relevant care period, then:
- (a) the first parent must pay to the second parent the annual rate of child support for the child worked out under step 8 of the method statement using the second parent's negative child support percentage (expressed as a positive); and
  - (b) subject to section 40B, the first parent must pay to the non-parent carer an annual rate of child support for the child that is the difference between:
    - (i) the annual rate of child support payable by the first parent for the child under subsection (3); and
    - (ii) the rate referred to in paragraph (a) of this subsection.

**Subdivision C—Working out annual rates of child support using incomes of both parents in multiple child support cases**

**36A Application of Subdivision**

- (1) The annual rate of child support payable for a child for a day in a child support period is assessed under this Subdivision if:
  - (a) both parents of the child are to be assessed in respect of the costs of that child; and
  - (b) at least one of the parents of the child is to be assessed in respect of the costs of another child in another child support case.
- (2) For the purposes of paragraph (1)(b), a parent is taken to be assessed in respect of the costs of another child in another child



support case if the parent is liable to pay child support for that child under an administrative assessment under the law of a reciprocating jurisdiction.

**37 Formula 3: Method statement using incomes of both parents in multiple child support cases with no non-parent carer**

This is how to work out the annual rate of child support payable for a child for a day in a child support period if no non-parent carer has a percentage of care for the child for the day.

*Method statement*

Step 1. Follow steps 1 to 6 in the method statement in section 35 for each parent.

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:

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

Step 2. Work out each parent's multi-case cap (if any) for the child for the day (see section 55E).

Step 3. If a parent has a positive child support percentage under step 6 of the method statement in section 35, the **annual rate of child support** payable by the parent for the child for the day is the lower of:

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

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|---|
| (b) the parent's multi-case cap (if any) for the child for the day. |
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Note: If a parent's percentage of care for a child is more than 65%, the parent's annual rate of child support for the child is nil (see section 40C).

**38 Formula 4: Working out annual rates of child support using incomes of both parents in multiple child support cases with a non-parent carer**

- (1) This is how to work out the annual rate of child support payable for a child for a day in a child support period if one or more non-parent carers have a percentage of care for the child for the day.
- (2) Follow steps 1 to 6 of the method statement in section 35 for each parent (disregarding subsection 55D(2) (negative child support percentages)).
- (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:

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

- (3) Work out each parent's multi-case cap (if any) for the child for the day (see section 55E).

*Annual rate payable by parent*

- (4) If a parent's (the **first parent's**) child support percentage under step 6 of the method statement in section 35 is positive, then the **annual rate of child support** payable by the first parent for the child for the day is the lower of:
  - (a) the rate worked out under subsection (2B); and
  - (b) the first parent's multi-case cap (if any) for the child for the day.

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*Annual rate payable only to non-parent carers*

- (5) If:
- (a) the second parent's child support percentage is also positive;  
or
  - (b) the second parent's child support percentage is nil or negative, and the second parent does not have at least shared care of the child during the relevant care period;
- then, subject to section 40B, the first parent must pay the annual rate of child support that is payable by the first parent for the child under subsection (4) to the non-parent carer or carers in accordance with section 40A.

Note 1: If both parents have a positive child support percentage, then the non-parent carer or carers are entitled to be paid the total of the 2 annual rates of child support that are payable by the parents for the child.

Note 2: Under section 40B, a non-parent carer of a child is not entitled to be paid child support unless he or she applies under section 25A in relation to the child.

*Annual rate payable to parent and non-parent carer*

- (6) If:
- (a) the second parent's child support percentage is negative; and
  - (b) the second parent has at least shared care of the child during the relevant care period;
- then, subject to section 40B, the first parent must pay the annual rate of child support that is payable by the first parent for the child under subsection (4) to the second parent and the non-parent carer in accordance with section 40A.

**Subdivision D—Working out annual rates of child support using income of one parent**

**38A Application of Subdivision**

The annual rate of child support payable for a child for a day in a child support period is assessed under this Subdivision if only one

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parent of the child is to be assessed in respect of the costs of the child.

**39 Formula 5: Method statement using income of one parent where other parent not a resident of Australia or in special circumstances**

- (1) This is how to work out the annual rate of child support payable for a child for a day in a child support period if a non-parent carer of the child has applied for a parent of the child to be assessed in respect of the costs of the child because of subparagraph 25A(b)(ii) or (iii) (non-resident of Australia or special circumstances).

*Method statement*

- Step 1. Work out the parent's child support income for the day (see section 41) and double that income.
- Step 2. Work out the parent's percentage of care for the child for the day (see Subdivision B of Division 4 of Part 5).
- Step 3. Work out the parent's cost percentage for the child for the day (see section 55C).
- 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.
- Step 5. Work out the following rate:

$$\frac{1}{2} \times \left[ \text{Costs of the child for the day} - \left( \text{Parent's cost percentage for the child for the day} \times \text{Costs of the child for the day} \right) \right]$$

- Step 6. If the parent is not assessed in respect of the costs of another child who is in another child support case, the **annual rate of child support** payable by the parent for the child for the day is the rate worked out under step 5.
- Step 7. If the parent is assessed in respect of the costs of another child who is in another child support case, work out the parent's multi-case cap for the child for the day (see section 55E).
- Step 8. The **annual rate of child support** payable by the parent for the child for the day is the lower of:
- (a) the rate worked out under step 5; and
  - (b) the parent's multi-case cap for the child for the day.
- Step 9. If there is only one non-parent carer who has a percentage of care for the child for the day, the parent must pay the annual rate of child support that is payable for the child under step 5 or 8 to the non-parent carer. If there are 2 non-parent carers who have a percentage of care for the child for the day, then, subject to section 40B, the parent must pay the annual rate of child support that is payable for the child under step 5 or 8 to the non-parent carers in accordance with section 40A.

Note: Under section 40B, a non-parent carer of a child is not entitled to be paid child support unless he or she applies under section 25A in relation to the child.

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- (2) For the purposes of steps 4, 6 and 7 of the method statement in subsection (1), a parent is taken to be assessed in respect of the costs of another child who is in another child support case if the parent is liable to pay child support for that child under an administrative assessment under the law of a reciprocating jurisdiction.

**40 Formula 6: Method statement using income of one parent where other parent deceased**

- (1) This is how to work out the annual rate of child support payable for a child for a day in a child support period if a non-parent carer of the child has applied for a parent of the child to be assessed in respect of the costs of the child because of subparagraph 25A(b)(iv) (deceased parent).

*Method statement*

- Step 1. Work out the parent's child support income for the day (see section 41).
- Step 2. Work out the parent's percentage of care for the child for the day (see Subdivision B of Division 4 of Part 5).
- Step 3. Work out the parent's cost percentage for the child for the day (see section 55C).
- 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.

Step 5. Work out the following rate:

$$\text{Costs of the child for the day} - \left( \begin{array}{l} \text{Parent's cost} \\ \text{percentage} \\ \text{for the child} \\ \text{for the day} \end{array} \times \text{Costs of the child for the day} \right)$$

Step 6. If the parent is not assessed in respect of the costs of another child who is in another child support case, the **annual rate of child support** payable by the parent for the child for the day is the rate worked out under step 5.

Step 7. If the parent is assessed in respect of the costs of another child who is in another child support case, work out the parent's multi-case cap for the child for the day (see section 55E).

Step 8. The **annual rate of child support** payable by the parent for the child for the day is the lower of:

- (a) the rate worked out under step 5; and
- (b) the parent's multi-case cap for the child for the day.

Step 9. If there is only one non-parent carer who has a percentage of care for the child for the day, the parent must pay the annual rate of child support that is payable for the child under step 5 or 8 to the non-parent carer. If there are 2 non-parent carers who have a percentage of care for the child for the day, then, subject to section 40B, the parent must pay the annual rate of child support that is payable for the child under step 5 or 8 to the non-parent carers in accordance with section 40A.

Note: Under section 40B, a non-parent carer of a child is not entitled to be paid child support unless he or she applies under section 25A in relation to the child.

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- (2) For the purposes of steps 4, 6 and 7 of the method statement in subsection (1), a parent is taken to be assessed in respect of the costs of another child who is in another child support case if the parent is liable to pay child support for that child under an administrative assessment under the law of a reciprocating jurisdiction.

**Subdivision E—General provisions**

**40A Cases where there is more than one person entitled to child support**

- (1) If, in applying:
- (a) subsection 36(4) or 38(5) or (6); or
  - (b) step 9 in the method statement in subsection 39(1) or 40(1); or
  - (c) subsection 65A(5);
- child support is payable to:
- (d) a parent and a non-parent carer of a child; or
  - (e) 2 non-parent carers of a child;

then, the annual rate of child support for the child for a day in the child support period that each parent or non-parent carer (as the case requires) is, subject to section 40B, entitled to be paid is:

$$\begin{array}{l} \text{Total rate to which parent} \\ \text{and non-parent carers} \\ \text{are entitled to be paid} \\ \text{for the day} \end{array} \times \frac{\text{Parent's or non-parent carer's} \\ \text{cost percentage for the child for the day}}{\text{Total of parent's and non-parent carer's} \\ \text{cost percentages for the child for the day}}$$

Note: Under section 40B, a non-parent carer of a child is not entitled to be paid child support unless he or she applies under section 25A in relation to the child.

- (2) In applying subsection (1), even if a non-parent carer is not entitled to be paid an annual rate of child support because of section 40B, the non-parent carer's cost percentage is taken into account.



#### **40B Non-parent carer must have applied for child support**

- (1) A non-parent carer of a child is not, under section 36, 38, 39, 40, 65A or 66, entitled to be paid an annual rate of child support for the child for a day in a child support period unless the non-parent carer has made an application under section 25A in relation to the child.
- (2) If a non-parent carer is not entitled to be paid child support for a child for a day in a child support period under subsection (1), the **annual rate of child support** payable by the parent for the child for the day is reduced by the amount that is not payable because of subsection (1).
- (3) If:
  - (a) a non-parent carer of a child has not so applied at the time the administrative assessment of child support for the child for the child support period is made; but
  - (b) the non-parent carer does so during the child support period; then:
    - (c) the non-parent carer is entitled to be paid an annual rate of child support for the child worked out under this Part from the day on which the non-parent carer makes the application under section 25A; and
    - (d) despite paragraph 7A(2)(a), a new child support period is not started by that application.

#### **40C Parents with more than 65% care**

The **annual rate of child support** payable by a parent for a child for a day in a child support period is nil if:

- (a) the parent's annual rate of child support for the child is worked out under section 35 or 37 (income of both parents, no non-parent carer); and
- (b) the parent's percentage of care determined for the purposes of the administrative assessment of child support for the child is more than 65%.

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**40D Parents with nil child support percentage**

The *annual rate of child support* payable by a parent for a child for a day in a child support period is nil if the parent's child support percentage for the child for the day is nil.

## **Division 3—Child support income**

### **Subdivision A—Preliminary**

#### **40E Simplified outline**

The following is a simplified outline of this Division:

- The income used in determining a parent’s capacity to meet the costs of his or her children might be reduced by the following amounts:
  - (a) the self-support amount (to take account of the parent’s need to support himself or herself);
  - (b) a relevant dependent child amount (if the parent cares for a relevant dependent child or step-child of the parent);
  - (c) a multi-case allowance (if the parent has multiple child support cases).
- The relevant dependent child amount and the multi-case allowance take account of the costs of relevant dependent children, and children in other child support cases, in a similar way to the way in which the costs of the children are worked out for children in a child support case.
- A parent’s adjusted taxable income for a year of income can be reduced under section 44 in respect of a particular child if the parent earns additional income during the first 3 years after separating from the other parent of the child.

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**Subdivision B—Child support income and combined child support income**

**41 Working out parent’s child support income**

*Single child support case—no relevant dependent children*

- (1) If:
- (a) a parent is to be assessed in respect of the costs of a child in only one child support case; and
  - (b) the parent does not have a relevant dependent child;
- the parent’s **child support income** for the child for a day in a child support period is the amount worked out using the formula:

$$\begin{array}{r} \text{Parent's adjusted taxable} \\ \text{income for the child} \\ \text{for the day} \end{array} - \begin{array}{r} \text{Parent's} \\ \text{self-support amount} \\ \text{for the day} \end{array}$$

*Single child support case—relevant dependent children*

- (2) If:
- (a) a parent is to be assessed in respect of the costs of a child (the **particular child**) in only one child support case; and
  - (b) the parent has at least one relevant dependent child;
- the parent’s **child support income** for the particular child for a day in a child support period is the amount worked out using the formula:

$$\begin{array}{r} \text{Parent's adjusted} \\ \text{taxable income} \\ \text{for the} \\ \text{particular child} \\ \text{for the day} \end{array} - \begin{array}{r} \text{Parent's} \\ \text{self-support amount} \\ \text{for the day} \end{array} - \begin{array}{r} \text{Parent's} \\ \text{relevant dependent} \\ \text{child amount} \\ \text{for the day} \end{array}$$

*Multiple child support cases—no relevant dependent children*

- (3) If:

- (a) a parent is to be assessed in respect of the costs of a child (the **particular child**); and
- (b) the parent is also to be assessed in respect of the costs of another child in another child support case; and
- (c) the parent does not have a relevant dependent child;
- the parent's **child support income** for the particular child for a day in a child support period is the amount worked out using the formula:

$$\begin{array}{r} \text{Parent's adjusted} \\ \text{taxable income} \\ \text{for the} \\ \text{particular child} \\ \text{for the day} \end{array} - \begin{array}{r} \text{Parent's} \\ \text{self-support amount} \\ \text{for the day} \end{array} - \begin{array}{r} \text{Parent's} \\ \text{multi-case allowance} \\ \text{for the} \\ \text{particular child} \\ \text{for the day} \end{array}$$

*Multiple child support cases—relevant dependent children*

- (4) If:
- (a) a parent is to be assessed in respect of the costs of a child (the **particular child**); and
- (b) the parent is also to be assessed in respect of the costs of another child in another child support case; and
- (c) the parent has at least one relevant dependent child;
- the parent's **child support income** for the particular child for a day in a child support period is the amount worked out using the formula:

$$\begin{array}{r} \text{Parent's} \\ \text{adjusted} \\ \text{taxable income} \\ \text{for the} \\ \text{particular child} \\ \text{for the day} \end{array} - \begin{array}{r} \text{Parent's} \\ \text{self-support} \\ \text{amount} \\ \text{for the day} \end{array} - \begin{array}{r} \text{Parent's} \\ \text{relevant} \\ \text{dependent} \\ \text{child amount} \\ \text{for the day} \end{array} - \begin{array}{r} \text{Parent's} \\ \text{multi-case} \\ \text{allowance} \\ \text{for the} \\ \text{particular child} \\ \text{for the day} \end{array}$$

*Negative result taken to be nil*

- (5) A parent's **child support income** for a day in a child support period is taken to be nil if the amount worked out using a formula in this section is negative.

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*Administrative assessments under laws of reciprocating jurisdictions*

- (6) Subsection (1) or (2) does not apply if the parent is liable to pay child support for a child under an administrative assessment under the law of a reciprocating jurisdiction.
- (7) For the purposes of paragraphs (3)(b) and (4)(b), a parent is taken to be assessed in respect of the costs of another child in another child support case if the parent is liable to pay child support for that child under an administrative assessment under the law of a reciprocating jurisdiction.

**42 Working out parents' combined child support income**

Work out the parents' *combined child support income* for a child for a day in a child support period by adding together each parent's child support income for the child for the day.

**Subdivision C—Working out the components of child support income**

**43 Working out parent's adjusted taxable income**

- (1) Subject to this Part, a parent's *adjusted taxable income* for a child for a day in a child support period is the total of the following components:
  - (a) the parent's taxable income for the last relevant year of income in relation to the child support period, disregarding the parent's assessable FHSS released amount (within the meaning of the *Income Tax Assessment Act 1997*) for that year of income;
  - (b) the parent's reportable fringe benefits total for that year of income;
  - (c) the parent's target foreign income for that year of income;
  - (d) the parent's total net investment loss (within the meaning of the *Income Tax Assessment Act 1997*) for that year of income;

- (e) the total of the tax free pensions or benefits received by that parent in that year of income;
- (f) the parent's reportable superannuation contributions (within the meaning of the *Income Tax Assessment Act 1997*) for that year of income.

Note 1: Other provisions that relate to a person's adjusted taxable income are section 34A and Subdivisions B and C of Division 7.

Note 2: The components of the definition of *adjusted taxable income* are defined in section 5.

- (2) If the Registrar amends an assessment under section 44, then for the purposes of the assessment, the person's *adjusted taxable income* for a child to whom the assessment relates, for a day in the child support period, is the amount determined by the Registrar.

#### 44 Post-separation costs

##### *Application for post-separation income to be excluded*

- (1) A parent (the *applicant*) of a child may apply to the Registrar to amend an administrative assessment of child support payable by or to the parent for the child for part of a child support period if:
  - (a) the applicant and the other parent of the child lived together on a genuine domestic basis for at least 6 months; and
  - (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
  - (c) at the time of the application under this section, the applicant and the other parent remain separated; and
  - (d) in the last relevant year of income, or in the application period for an income election (if such an election has been made by the parent), the applicant earns, derives or receives income:

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- (i) in accordance with a pattern of earnings, derivation or receipt that is established after the applicant and the other parent first separate; and
  - (ii) that is of a kind that it is reasonable to expect would not have been earned, derived or received in the ordinary course of events.
- (2) If the applicant makes an application under this section, the Registrar may determine that the applicant's adjusted taxable income for the child for a day in the child support period is a specified amount that excludes the income referred to in paragraph (1)(d).
- (3) However, the Registrar may make a determination under subsection (2) only if the determination:
  - (a) reduces the applicant's adjusted taxable income for the child for a day in the child support period by 30% or less; and
  - (b) applies in respect of a day in the child support period, being a day that is less than 3 years after the last separation referred to in paragraph (1)(b).

*Registrar to implement determinations*

- (4) The Registrar is to take such action as is necessary to give effect to the determination by amending any administrative assessment that has been made in relation to the child support period.

*Notice to be served if Registrar refuses application*

- (5) If the Registrar refuses to make a determination under subsection (2), the Registrar must serve written notice of the decision on the applicant.
- (6) The notice must include, or be accompanied by, a statement to the effect:
  - (a) that the applicant may, subject to the Registration and Collection Act, object to the particulars of the assessment in relation to which the applicant sought to make the application; and



- (b) that if the applicant is aggrieved by the decision on the objection, he or she may, subject to that Act and the ART Act, apply to the ART for review of the decision.
- (7) This section does not prevent the Registrar from making a new assessment for part of the child support period.

Note: This section does not limit the power under section 75 to amend assessments (see subsection 75(5)).

#### 45 Working out the self-support amount

A parent's *self-support amount* for a day in a child support period is:

$$\frac{1}{3} \times \begin{array}{l} \text{Annualised MTAWWE figure} \\ \text{for the relevant June quarter} \end{array}$$

Note: A parent's self-support amount can be varied by a determination or order under section 98S or 118.

#### 46 Working out parent's relevant dependent child amount

A parent's *relevant dependent child amount* for a day in a child support period is the total of the amounts worked out for each relevant dependent child of the parent using this method statement.

*Method statement*

- Step 1. Work out the difference between the parent's adjusted taxable income for the child for the day and the parent's self-support amount for the day (see sections 43 and 45).
- Step 2. Work out the parent's percentage of care for the child for the day (see Subdivision B of Division 4 of Part 5).
- Step 3. Work out the parent's cost percentage for the child for the day (see section 55C).

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- Step 4. Work out the costs of the child for the day under sections 55G and 55H 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 55G(2) to the parent's child support income were a reference to the amount worked out under step 1; and
  - (c) references in sections 55G and 55H to children in the child support case that relates to the child were references to all of the parent's relevant dependent children.

Step 5. Work out the following amount for the child for a day in the child support period:

$$\begin{array}{r} \text{Parent's cost percentage} \\ \text{for the child} \\ \text{under step 3} \end{array} \times \begin{array}{r} \text{Costs of the child} \\ \text{under step 4} \end{array}$$

Note: Section 73A deals with the Registrar discovering, after making an administrative assessment, that a parent has a relevant dependent child.

#### 47 Working out multi-case allowances

- (1) A parent's *multi-case allowance* for a child (the *particular child*) for a day in a child support period is worked out using this method statement.

*Method statement*

Step 1. Work out the following amount:

$$\begin{array}{r} \text{Parent's adjusted taxable income} \\ \text{for the particular child} \\ \text{for the day} \end{array} - \begin{array}{r} \text{Self-support amount} \\ \text{for the day} \end{array}$$

- Step 2. If the parent has a relevant dependent child, take the parent's relevant dependent child amount (see section 46) for the day from the amount worked out under step 1.
- 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).

- (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.

## Division 4—Percentage of care

### Subdivision A—Preliminary

#### 48 Simplified outline

The following is a simplified outline of this Division:

- A responsible person's percentage of care for a child during a care period is the percentage of care determined by the Registrar under Subdivision B of this Division.
- A responsible person's percentage of care for a child is used in section 55C to work out the responsible person's cost percentage for the child.

### Subdivision B—Determination of percentage of care

#### 49 Determination of percentage of care—responsible person has had etc. no pattern of care for a child

- (1) This section applies if:
    - (a) either of the following applies:
      - (i) an application is made under section 25 or 25A for a parent to be assessed in respect of the costs of the child;
      - (ii) a parent is taken under section 73A to have had a relevant dependent child from a day specified in that section;
- and the Registrar is satisfied that a responsible person for the child has had, or is likely to have, no pattern of care for the child during such period (the *care period*) as the Registrar considers to be appropriate having regard to all the circumstances; or

- (b) both of the following apply:
  - (i) the determination of a responsible person's percentage of care for a child that was made under this section or section 50 is revoked or suspended under Subdivision C of this Division, except under paragraph 54FA(3)(b) or 54HA(3)(b);
  - (ii) the Registrar is satisfied that the responsible person has had, or is likely to have, no pattern of care for the child during such period (the *care period*) as the Registrar considers to be appropriate having regard to all the circumstances.
- (2) The Registrar must determine the responsible person's percentage of care for the child during the care period.
- (3) The percentage of care determined under subsection (2) must be 0%, unless section 51 applies in relation to the responsible person.

**50 Determination of percentage of care—responsible person has had etc. a pattern of care for a child**

- (1) This section applies if:
  - (a) either of the following applies:
    - (i) an application is made under section 25 or 25A for a parent to be assessed in respect of the costs of the child;
    - (ii) a parent is taken under section 73A to have had a relevant dependent child from a day specified in that section;and the Registrar is satisfied that a responsible person for the child has had, or is likely to have, a pattern of care for the child during such period (the *care period*) as the Registrar considers to be appropriate having regard to all the circumstances; or
  - (b) both of the following apply:
    - (i) the determination of a responsible person's percentage of care for a child that was made under section 49 or this section is revoked or suspended under Subdivision

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C of this Division, except under paragraph 54FA(3)(b) or 54HA(3)(b);

- (ii) the Registrar is satisfied that the responsible person has had, or is likely to have, a pattern of care for the child during such period (the *care period*) as the Registrar considers to be appropriate having regard to all the circumstances.
- (2) The Registrar must determine the responsible person's percentage of care for the child during the care period.
  - (3) The percentage determined under subsection (2) must be a percentage that corresponds with the actual care of the child that the Registrar is satisfied that the responsible person has had, or is likely to have, during the care period.
  - (4) Subsection (3) does not apply if section 51 applies in relation to the responsible person.

**51 Percentage of care if action taken to ensure that a care arrangement in relation to a child is complied with**

- (1) This section applies if:
  - (a) the Registrar is required by section 49 or 50 to determine a responsible person's percentage of care for a child during a care period; and
  - (b) a care arrangement applies in relation to the child; and
  - (c) the Registrar is satisfied that the actual care of the child that the responsible person has had, or is likely to have, during the care period does not comply with the extent of care of the child that the person should have had, or is to have, under the care arrangement during that period (which may be nil); and
  - (d) a person who has reduced care of the child is taking reasonable action to ensure that the care arrangement is complied with.

Note: This section does not apply in certain circumstances: see section 53.

*2 percentages of care in relation to the responsible person*

- (2) Subject to subsection (5), the Registrar must determine, under section 49 or 50, 2 percentages of care in relation to the responsible person.
- (3) The first percentage of care is to be a percentage that corresponds with the extent of care of the child that the responsible person should have had, or is to have, under the care arrangement during the care period (which may be nil).
- (4) The second percentage of care is to be:
  - (a) for a determination under section 49—0%; or
  - (b) for a determination under section 50—a percentage that corresponds with the actual care of the child that the Registrar is satisfied that the responsible person would be likely to have during the care period if the action referred to in paragraph (1)(d) were not to succeed.

*Single percentage of care in relation to the responsible person*

- (5) If the Registrar is satisfied that special circumstances exist in relation to the child, the Registrar may determine, under section 49 or 50, a single percentage of care in relation to the responsible person.
- (6) The single percentage of care is to be:
  - (a) for a determination under section 49—0%; or
  - (b) for a determination under section 50—a percentage that corresponds with the actual care of the child that the Registrar is satisfied that the responsible person would be likely to have during the care period if the action referred to in paragraph (1)(d) were not to succeed.

**53 Section 51 does not apply in certain circumstances**

- (1) Section 51 does not apply in relation to a responsible person in relation to whom a determination is to be or has been made under section 49 or 50 if:

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- (a) in a case where subparagraph 49(1)(a)(i) or 50(1)(a)(i) applies in relation to the determination—the day the application referred to in that subparagraph is made is after the end of the maximum interim period for the determination; or
  - (b) in a case where subparagraph 49(1)(a)(ii) or 50(1)(a)(ii) applies in relation to the determination—the day referred to in that subparagraph is after the end of the maximum interim period for the determination.
- (2) Section 51 also does not apply in relation to a responsible person in relation to whom a determination (a **later determination**) has been made under section 49 or 50 if:
- (a) an earlier determination determined the responsible person's percentage of care for a child under that section for the purposes of subsections 51(3) and (4); and
  - (b) the later determination is made after the end of the maximum interim period for the earlier determination; and
  - (c) the later determination relates to the same care arrangement as the earlier determination.

**53A Meaning of *interim period***

- (1) An ***interim period*** for a determination under section 49 or 50 of a responsible person's percentage of care for a child is (subject to subsection (4)) the period:
- (a) beginning on:
    - (i) the responsible person's change of care day, unless subsection (2) applies; or
    - (ii) if subsection (2) applies—the day specified in that subsection; and
  - (b) ending:
    - (i) as set out in the applicable item of the following table, unless subparagraph (ii), (iii) or (iv) applies; or
    - (ii) if the person referred to in paragraph 51(1)(d) who has reduced care of the child ceases to take reasonable



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- action to ensure that the care arrangement is complied with—on the day the person so ceases; or
- (iii) if a care arrangement in relation to the child ceases to apply on a day—on that day; or
  - (iv) if a care arrangement in relation to the child begins to apply on a day—on the day before that day.

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**Interim period**

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<b>Item</b>	<b>If the following conditions are met ...</b>	<b>the interim period ends ...</b>
1	<ul style="list-style-type: none"> <li>(a) the care arrangement for the child is a court order;</li> <li>(b) the Registrar is not satisfied that special circumstances exist in relation to the child;</li> <li>(c) assuming table item 2 applied, the period that would apply under that item ends before the end of the period of 52 weeks starting on the day the court order first takes effect</li> </ul>	at the end of that 52 week period.
2	<ul style="list-style-type: none"> <li>(a) the care arrangement for the child is a court order;</li> <li>(b) the Registrar is not satisfied that special circumstances exist in relation to the child;</li> <li>(c) table item 1 does not apply</li> </ul>	at the end of: <ul style="list-style-type: none"> <li>(a) the period of 26 weeks starting on the change of care day, unless paragraph (b) applies; or</li> <li>(b) the period of 14 weeks starting on the day the person who has increased care of the child began continuously taking reasonable action to participate in family dispute resolution if:                             <ul style="list-style-type: none"> <li>(i) that 14 week period ends before the end of the 26 week period referred to in paragraph (a); and</li> <li>(ii) the person takes that reasonable</li> </ul> </li> </ul>

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**Part 5** Administrative assessment of child support

**Division 4** Percentage of care

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**Interim period**

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<b>Item</b>	<b>If the following conditions are met ...</b>	<b>the interim period ends ...</b>
		action throughout that 14 week period.
3	(a) the care arrangement for the child is a written agreement or a parenting plan; (b) the Registrar is not satisfied that special circumstances exist in relation to the child; (c) the change of care day occurs before the end of the period of 38 weeks after the day the agreement or plan first takes effect	at the end of the period of 14 weeks starting on the change of care day.
4	(a) the care arrangement for the child is a written agreement or a parenting plan; (b) the Registrar is not satisfied that special circumstances exist in relation to the child; (c) the change of care day occurs after the end of the period of 38 weeks, but before the end of the period of 48 weeks, starting on the day the agreement or plan first takes effect	at the end of: (a) the period of 14 weeks starting on the change of care day, unless paragraph (b) applies; or (b) the period of 4 weeks starting on the day the person who has increased care of the child began continuously taking reasonable action to participate in family dispute resolution if: (i) that 4 week period began at or after the end of the period of 48 weeks starting on the day the agreement or plan first takes effect; and (ii) that 4 week period ends before the end of the 14 week period referred to in paragraph (a); and (iii) the person takes that reasonable action throughout that 4 week period.

<b>Interim period</b>		
<b>Item</b>	<b>If the following conditions are met ...</b>	<b>the interim period ends ...</b>
5	<ul style="list-style-type: none"> <li>(a) the care arrangement for the child is a written agreement or a parenting plan;</li> <li>(b) the Registrar is not satisfied that special circumstances exist in relation to the child;</li> <li>(c) the change of care day occurs after the end of 48 weeks after the agreement or plan first takes effect</li> </ul>	<p>at the end of:</p> <ul style="list-style-type: none"> <li>(a) the period of 14 weeks starting on the change of care day, unless paragraph (b) applies; or</li> <li>(b) the period of 4 weeks starting on the day the person who has increased care of the child began continuously taking reasonable action to participate in family dispute resolution if: <ul style="list-style-type: none"> <li>(i) that 4 week period ends before the end of the 14 week period referred to in paragraph (a); and</li> <li>(ii) the person takes that reasonable action throughout that 4 week period.</li> </ul> </li> </ul>
6	the Registrar is satisfied that special circumstances exist in relation to the child	on the day determined by the Registrar, being a day before the day the period would otherwise end if the special circumstances did not exist in relation to the child.

*Beginning of later interim periods*

- (2) If:
- (a) an interim period for the determination ends under item 2, 4 or 5 of the table in subsection (1) before the end of the maximum interim period for the determination; and
  - (b) the person referred to in paragraph 51(1)(d) who has reduced care of the child is taking reasonable action to ensure that the care arrangement is complied with; and
  - (c) the person (the *second carer*) who has increased care of the child ceases to take reasonable action to participate in family dispute resolution before the end of the maximum interim period;

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then a further interim period for the determination begins on the day the second carer ceases to take such reasonable action.

*When a person takes reasonable action to participate in family dispute resolution*

- (3) A person who has increased care of a child ***takes reasonable action to participate in family dispute resolution*** if:
- (a) the person:
    - (i) initiates and participates in family dispute resolution; or
    - (ii) participates in family dispute resolution that was initiated by the person referred to in paragraph 51(1)(d) who has reduced care of the child; and
  - (b) in relation to determining whether an interim period begins on the change of care day for the person—the person takes an action referred to in paragraph (a) within a reasonable period of that day.

*Determinations made before the end of a maximum interim period*

- (4) A determination under section 49 or 50 of a responsible person's percentage of care for a child does not have an interim period if the determination is made under that section before the end of the maximum interim period for another determination under either of those sections of the responsible person's percentage of care for the child (see sections 54FA and 54HA).

**53B When a person has increased care of a child**

A person has ***increased care of a child*** if:

- (a) a care arrangement applies in relation to the child; and
- (b) the person should have had, or is to have, an extent of care of the child under the care arrangement during a care period; and
- (c) the Registrar is satisfied that the actual care of the child that the person has had, or is likely to have, during the care period is more than that extent of care.

#### **54 When a person has *reduced care of a child***

A person has *reduced care of a child* if:

- (a) a care arrangement applies in relation to the child; and
- (b) the person should have had, or is to have, an extent of care of the child under the care arrangement during a care period; and
- (c) the Registrar is satisfied that the actual care of the child that the person has had, or is likely to have, during the care period is less than that extent of care.

#### **54A Working out actual care, and extent of care, of a child**

- (1) The actual care of a child that a person has had, or is likely to have, during a care period may be worked out based on the number of nights that the Registrar is satisfied that the child was, or is likely to be, in the care of the person during the care period.
- (2) The extent of care of a child that a person should have had, or is to have, under a care arrangement during a care period may be worked out based on the number of nights that the child should have been, or is to be, in the care of the person during the care period under the care arrangement.
- (3) For the purposes of this section, a child cannot be in the care of more than one person at the same time.
- (4) This section does not limit section 50, 51, 53B or 54.

#### **54B Days to which the percentage of care applies if section 51 did not apply etc. in relation to a responsible person**

- (1) This section applies if a determination of a responsible person's percentage of care for a child is made under section 49 or 50 and:
  - (a) section 51 did not apply in relation to the responsible person; or
  - (b) all of the following apply:

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- (i) section 51 did apply in relation to the responsible person;
  - (ii) the determination (the *later determination*) was made while an earlier determination of the responsible person's percentage of care for the child was suspended under subsection 54FA(2) or 54HA(2);
  - (iii) the earlier determination is still suspended under that subsection or the earlier determination was revoked under subsection 54FA(4) or 54HA(4);
  - (iv) the later determination has not been revoked; or
- (c) section 51 did apply in relation to the responsible person but the determination made under section 49 or 50 determined a single percentage of care for the child for the purposes of subsection 51(5).

Note: For when section 51 does not apply, see section 53.

(1A) The percentage of care applies to each day in a child support period on and from the application day until the determination is revoked, or the earlier determination ceases to be suspended, under Subdivision C of this Division.

(2) The *application day* is:

- (a) if subparagraph 49(1)(a)(i) or 50(1)(a)(i) applies in relation to the determination—the day on which the application referred to in that subparagraph is made; or
- (b) if subparagraph 49(1)(a)(ii) or 50(1)(a)(ii) applies in relation to the determination—the day referred to in that subparagraph; or
- (c) if paragraph 49(1)(b) or 50(1)(b) applies in relation to the determination:
  - (i) in a case where the revocation of the determination referred to in subparagraph 49(1)(b)(i) or 50(1)(b)(i) takes effect at the beginning of the day referred to in paragraph 54G(2)(a)—that day; or
  - (ii) otherwise—the day that begins immediately after the revocation of the determination referred to in that subparagraph takes effect.

**54C Days to which the percentage of care applies if 2 percentages of care apply under section 51 in relation to a responsible person**

- (1) This section applies if:
  - (a) a determination of a responsible person's percentage of care for a child is made under section 49 or 50; and
  - (b) 2 percentages of care were determined for the purposes of subsection 51(2) in relation to the responsible person; and
  - (c) the determination is not suspended under subsection 54FA(2) or 54HA(2).
- (2) Until the determination is revoked or suspended under Subdivision C of this Division:
  - (a) the percentage of care referred to in subsection 51(3) applies to each day in a child support period that occurs in the interim period for the determination; and
  - (b) the percentage of care referred to in subsection 51(4) applies to each day in a child support period that does not occur in the interim period for the determination.

**54D Rounding of a percentage of care**

If a responsible person's percentage of care determined under this Subdivision is not a whole percentage:

- (a) if the percentage is greater than 50%—the percentage is rounded up to the nearest whole percentage; and
- (b) if the percentage is less than 50%—the percentage is rounded down to the nearest whole percentage.

**54E Registrar must have regard to guidelines about the making of determinations**

In making a determination under this Subdivision, the Registrar must have regard to any guidelines in force under subsection 35N(1) of the Family Assistance Act.

**Subdivision C—Revocation and suspension of determination of percentage of care**

**54F Determination must be revoked if there is a change to the responsible person's cost percentage**

- (1) The Registrar must revoke a determination of a responsible person's percentage of care (the *existing percentage of care*) for a child made under section 49 or 50 if:
  - (a) the Registrar or Secretary is notified, or otherwise becomes aware, that the care of the child that is actually taking place does not correspond with the responsible person's existing percentage of care for the child; and
  - (b) the Registrar is satisfied that the responsible person's cost percentage for the child would change if the Registrar were to determine, under section 49 or 50, another percentage to be the person's percentage of care for the child; and
  - (c) section 54G does not apply; and
  - (d) subsection (2) applies in relation to the individual.

Note: The Registrar must make another determination under section 49 or 50 to replace the revoked determination: see paragraph 49(1)(b) or 50(1)(b).

- (2) This subsection applies in relation to a responsible person if:
  - (a) section 51 did not apply in relation to the responsible person;  
or
  - (b) section 51 did apply in relation to the responsible person but the maximum interim period for the determination has ended;  
or
  - (c) all of the following apply:
    - (i) section 51 did apply in relation to the responsible person;
    - (ii) the maximum interim period for an earlier determination of the responsible person's percentage of care for the child has not ended;



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- (iii) an interim period does not currently apply in relation to the earlier determination;
- (iv) the determination referred to in subsection (1) was made while the earlier determination was suspended under this Subdivision.

Note: For when section 51 does not apply, see section 53.

- (3) The revocation of the determination takes effect at the end of:
  - (a) if the Registrar or Secretary is notified, or otherwise becomes aware, of the matter referred to in paragraph (1)(a) within 28 days after the change of care day for the responsible person—the day before the change of care day; or
  - (b) if the Registrar or Secretary is notified, or otherwise becomes aware, of that matter more than 28 days after the change of care day for the responsible person and:
    - (i) the responsible person's care of the child has increased—the day before the Registrar or Secretary is notified, or otherwise becomes aware, of that matter; or
    - (ii) the responsible person's care of the child has reduced—the day before the change of care day.

**54FA Suspension of determination before the end of the maximum interim period if there is a change to the responsible person's cost percentage**

- (1) This section applies if:
  - (a) a determination (the *earlier determination*) of a responsible person's percentage of care (the *actual percentage*) for a child has been made under section 49 or 50 for the purposes of subsection 51(4); and
  - (b) the Registrar or Secretary is notified, or otherwise becomes aware, that the care of the child that is actually taking place does not correspond with the responsible person's actual percentage for the child; and
  - (c) the Registrar is satisfied that the responsible person's cost percentage for the child would change if the Registrar were

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to determine, under section 49 or 50, another percentage to be the person's percentage of care for the child; and

- (d) sections 54F and 54G do not apply; and
- (e) an interim period for the earlier determination does not currently apply; and
- (f) the maximum interim period for the earlier determination has not ended.

*Suspending the determination*

- (2) The Registrar must suspend the earlier determination. The suspension takes effect at the end of the day before the Registrar or Secretary is so notified or otherwise becomes aware.

Note: The Registrar must make another determination under section 49 or 50 when the earlier determination is suspended: see paragraph 49(1)(b) or 50(1)(b).

*Lifting of suspension of determination*

- (3) If a further interim period for the earlier determination begins before the end of the maximum interim period for the determination because the person who has increased care of the child ceases to take reasonable action to participate in family dispute resolution, the Registrar must revoke:
  - (a) the suspension of the earlier determination; and
  - (b) any determination (the **later determination**) of the person's percentage of care for the child that was made under section 49 or 50 during the suspension.

A revocation under this subsection takes effect at the end of the day before the person ceases to take that reasonable action.

*Ending of maximum interim period*

- (4) When the maximum interim period for the earlier determination ends, the Registrar must revoke:
  - (a) the earlier determination (and any suspension of the earlier determination); and
  - (b) any later determination that meets the following conditions:

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- (i) the later determination was made during the suspension of the earlier determination;
- (ii) the Registrar is satisfied that the care of the child that is actually taking place does not correspond with the responsible person's percentage of care for the child determined under the later determination.

Note: The Registrar must make another determination under section 49 or 50 after revoking a determination under this subsection: see paragraph 49(1)(b) or 50(1)(b).

**54G Determination must be revoked if there is less than regular care etc.**

(1) If:

- (a) a responsible person (the *first responsible person*) for a child was to have at least regular care of the child during a care period under a determination (the *first care determination*) made under section 50; and
- (b) the first responsible person has had no care of the child, or has had a pattern of care that is less than regular care of the child, despite another responsible person for the child making the child available to the first responsible person; and
- (c) a determination of the other responsible person's percentage of care for the child has been made under section 50; and
- (d) the other responsible person notifies the Registrar or the Secretary of the matter referred to in paragraph (b) of this subsection within a period that the Registrar considers is reasonable in the circumstances;

the Registrar must revoke both determinations.

Note: The Registrar must make new determinations under section 49 or 50 to replace the revoked determinations: see paragraph 49(1)(b) or 50(1)(b).

(2) The revocation of each determination takes effect:

- (a) if the first responsible person never established a pattern of care in accordance with the first care determination—at the beginning of the application day for that determination; or

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- (b) if the first responsible person established a pattern of care in accordance with the first care determination but later ceased the established pattern of care—at the end of the day before the day on which the person ceased the previously established pattern of care.
- (3) To avoid doubt, a responsible person never establishes a pattern of care if:
  - (a) the responsible person could not have established the pattern of care until a particular period that occurs later in a child support period; and
  - (b) the responsible person does not establish that pattern during that particular period.

**54H Registrar may revoke a determination of a responsible person's percentage of care**

- (1) The Registrar may revoke a determination of a responsible person's percentage of care (the *existing percentage of care*) for a child made under section 49 or 50 if:
  - (a) the Registrar or Secretary is notified, or otherwise becomes aware, that the care of the child that is actually taking place does not correspond with the responsible person's existing percentage of care for the child; and
  - (b) the Registrar is satisfied that, if the Registrar were to determine, under section 49 or 50, another percentage to be the responsible person's percentage of care for the child, the other percentage would not be the same as the person's existing percentage of care for the child; and
  - (c) sections 54F, 54FA and 54G do not apply; and
  - (d) subsection (2) applies in relation to the individual.

Note: The Registrar must make another determination under section 49 or 50 to replace the revoked determination: see paragraph 49(1)(b) or 50(1)(b).

- (2) This subsection applies in relation to a responsible person if:
  - (a) section 51 did not apply in relation to the responsible person; or

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- (b) section 51 did apply in relation to the responsible person but the maximum interim period for the determination has ended; or
- (c) all of the following apply:
  - (i) section 51 did apply in relation to the responsible person;
  - (ii) the maximum interim period for an earlier determination of the responsible person's percentage of care for the child has not ended;
  - (iii) an interim period for the earlier determination does not currently apply;
  - (iv) the determination referred to in subsection (1) was made while the earlier determination was suspended under this Subdivision.

Note: For when section 51 does not apply, see section 53.

- (3) The revocation of the determination takes effect at the end of:
  - (a) if the Registrar or Secretary is notified, or otherwise becomes aware, of the matter referred to in paragraph (1)(a) within 28 days after the change of care day for the responsible person—the day before the change of care day; or
  - (b) if the Registrar or Secretary is notified, or otherwise becomes aware, of that matter more than 28 days after the change of care day for the responsible person and:
    - (i) the responsible person's care of the child has increased—the day before the Registrar or Secretary is notified, or otherwise becomes aware, of that matter; or
    - (ii) the responsible person's care of the child has reduced—the day before the change of care day.

**54HA Suspension of determination of a responsible person's percentage of care before the end of the maximum interim period**

- (1) This section applies if:

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- (a) a determination (the *earlier determination*) of a responsible person's percentage of care (the *actual percentage*) for a child has been made under section 49 or 50 for the purposes of subsection 51(4); and
- (b) the Registrar or Secretary is notified, or otherwise becomes aware, that the care of the child that is actually taking place does not correspond with the responsible person's actual percentage for the child; and
- (c) the Registrar is satisfied that, if the Registrar were to determine, under section 49 or 50, another percentage to be the responsible person's percentage of care for the child, the other percentage would not be the same as the person's actual percentage for the child; and
- (d) sections 54F, 54FA, 54G and 54H do not apply; and
- (e) an interim period for the earlier determination does not currently apply; and
- (f) the maximum interim period for the earlier determination has not ended.

*Suspending the determination*

- (2) The Registrar may suspend the earlier determination. The suspension takes effect at the end of the day before the Registrar or Secretary is so notified or otherwise becomes aware.

Note: The Registrar must make another determination under section 49 or 50 if the earlier determination is suspended: see paragraph 49(1)(b) or 50(1)(b).

*Lifting of suspension of determination*

- (3) If a further interim period for the earlier determination begins before the end of the maximum interim period for the determination because the person who has increased care of the child ceases to take reasonable action to participate in family dispute resolution, the Registrar must revoke:
  - (a) the suspension of the earlier determination; and

- (b) any determination (the *later determination*) of the person's percentage of care for the child that was made under section 49 or 50 during the suspension.

A revocation under this subsection takes effect at the end of the day before the person ceases to take that reasonable action.

*Ending of maximum interim period*

- (4) When the maximum interim period for the earlier determination ends, the Registrar must revoke:
- (a) the earlier determination (and any suspension of the earlier determination); and
  - (b) any later determination that meets the following conditions:
    - (i) the later determination was made during the suspension of the earlier determination;
    - (ii) the Registrar is satisfied that the care of the child that is actually taking place does not correspond with the responsible person's percentage of care for the child determined under the later determination.

Note: The Registrar must make another determination under section 49 or 50 after revoking a determination under this subsection: see paragraph 49(1)(b) or 50(1)(b).

**54J Registrar must have regard to guidelines about the revocation of determinations**

In revoking a determination under this Subdivision, the Registrar must have regard to any guidelines in force under subsection 35S(1) of the Family Assistance Act.

**Subdivision D—Percentages of care determined under the Family Assistance Act**

**54K Percentages of care determined under the Family Assistance Act that apply for child support purposes**

- (1) If:
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- (a) the Registrar is required by a provision of Subdivision B of this Division to determine a responsible person's percentage of care for a child; and
  - (b) the Secretary has determined the responsible person's percentage of care for the child (the *family assistance care determination*) under a provision of Subdivision D of Division 1 of Part 3 of the Family Assistance Act; and
  - (c) the family assistance care determination was made in relation to a claim for payment of family tax benefit; and
  - (d) the family assistance care determination has not ceased to apply or been revoked;
- then:
- (e) the family assistance care determination has effect, for the purposes of this Act, as if it were a determination of the responsible person's percentage of care for the child that has been made by the Registrar under a corresponding provision of Subdivision B of this Division; and
  - (f) the responsible person's percentage of care for the child applies, for the purposes of this Act, in the same way, and in the same circumstances, in which it would apply if it had been determined by the Registrar under such a provision; and
  - (g) the family assistance care determination may cease to apply, or be revoked, under Subdivision B or C of this Division in the same way, and in the same circumstances, in which a determination made under Subdivision B of this Division may cease to apply, or be revoked.
- (2) This section ceases to apply to the family assistance care determination if the determination ceases to apply, or is revoked, under Subdivision D or E of Division 1 of Part 3 of the Family Assistance Act.

**54L Reviews of percentages of care under the Family Assistance Administration Act apply for child support purposes**

- (1) Subject to subsection (2), if:



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- (a) the Secretary reviews a decision under section 105 or 109A of the Family Assistance Administration Act; and
- (b) reviewing the decision involves (wholly or partly) a review of a determination that:
  - (i) was made under a provision of Subdivision D of Division 1 of Part 3 of the Family Assistance Act; or
  - (ii) has effect, under section 35T of that Act, as if it were a determination made under such a provision; and
- (c) the Secretary's decision on the review has the effect of varying the determination or substituting a new determination;

section 54K of this Act applies as if the determination as varied or substituted were the family assistance care determination referred to in that section.

(2) If:

- (a) the ART reviews a decision on application referred to in section 111 of the Family Assistance Administration Act; and
- (b) the review involves (wholly or partly) a review of a determination that:
  - (i) was made under a provision of Subdivision D of Division 1 of Part 3 of the Family Assistance Act; or
  - (ii) has effect, under section 35T of that Act, as if it were a determination made under such a provision; and
- (c) the decision on review has the effect of varying or substituting the determination;

section 54K of this Act applies as if the determination as varied or substituted were the family assistance care determination referred to in that section.

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## Division 5—Working out other elements for the formulas

### Subdivision A—Preliminary

#### 55A Simplified outline

The following is a simplified outline of this Division:

- A parent's income percentage represents the parent's capacity to meet the costs of the child.
- A parent's cost percentage represents the extent to which the parent is taken to have met the costs of the child through care.
- A parent's child support percentage is the difference between the parent's income percentage and his or her cost percentage. Generally, if the parent has a positive child support percentage, the annual rate of child support payable by the parent is that percentage of the costs of the child.
- If a parent has multiple child support cases, the annual rate of child support payable by the parent for a child is capped by the parent's multi-case cap for the child.

### Subdivision B—Working out other elements for the formulas

#### 55B Working out income percentages

Work out each parent's *income percentage* for a child for a day in a child support period using the formula (worked out to 2 decimal places, rounding up if the third decimal place is 5 or more):

$$\frac{\text{Parent's child support income for the child for the day}}{\text{Parents' combined child support income for the child for the day}}$$

### 55C Working out cost percentages

A parent's or non-parent carer's *cost percentage* for a child for a day in a child support period is the percentage worked out using the table based on the parent's or non-parent carer's (as the case requires) percentage of care for the child for the day.

Cost percentages		
Item	Column 1 Percentage of care	Column 2 Cost percentage
1	0 to less than 14%	Nil
2	14% to less than 35%	24%
3	35% to less than 48%	25% plus 2% for each percentage point over 35%
4	48% to 52%	50%
5	more than 52% to 65%	51% plus 2% for each percentage point over 53%
6	more than 65% to 86%	76%
7	more than 86% to 100%	100%

### 55D Working out child support percentages

- (1) Work out each parent's *child support percentage* for a child for a day in the child support period using the formula:

$$\text{Parent's income percentage for the child for the day} - \text{Parent's cost percentage for the child for the day}$$

- (2) A parent's *child support percentage* for a day in a child support period is taken to be nil if the amount worked out using the formula is negative.

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**55E Working out the multi-case cap**

- (1) Work out a parent's multi-case cap for a child (the *particular child*) for a day in a child support period in accordance with subsection (2) if:
- (a) the parent's annual rate of child support for the particular child is assessed for the day under section 37, 38, 39 or 40; and
  - (b) if section 37 or 38 applies—the parent has a positive child support percentage for the particular child under step 6 of the method statement in section 35; and
  - (c) in any case—the parent is assessed for the day in respect of the costs of another child who is in another child support case.

- (2) The parent's *multi-case cap* for the particular child for the day is worked out using the formula:

$$\left( 100\% - \frac{\text{Parent's cost percentage for the particular child for the day}}{\text{Parent's cost percentage for the particular child for the day}} \right) \times \frac{\text{Multi-case child costs for the particular child for the day}}{\text{Multi-case child costs for the particular child for the day}}$$

- (3) For the purposes of paragraph (1)(c), a parent is taken to be assessed for a day in respect of the costs of another child who is in another child support case if the parent is liable to pay child support for that child for the day under an administrative assessment under the law of a reciprocating jurisdiction.

## **Division 6—The costs of the child**

### **Subdivision A—Preliminary**

#### **55F Simplified outline**

The following is a simplified outline of this Division:

- The costs of the children are worked out using the rules in this Division and the Costs of the Children Table in Schedule 1.
- The costs of the children are based on the number of children in a child support case and the ages of those children.
- The costs of the child are the costs of the children divided by the number of children in the child support case.
- The Costs of the Children Table is updated every year to reflect changes to the annualised MTAWWE figure.

### **Subdivision B—The costs of the child**

#### **55G Working out the costs of the children**

- (1) If an annual rate of child support for a day in a child support period is assessed for a child under section 35 or 36 (Formulas 1 and 2), 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:

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- (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).
- (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. If there are more than 3 child support children, use the ages of the 3 oldest children.
  - (5) Identify the item in the relevant column in the Costs of the Children Table that covers that number of child support children of those ages.
  - (6) The amount worked out for the item in accordance with Schedule 1 to this Act is the *costs of the children*.
  - (7) For the purposes of paragraph (2)(b), a parent is taken to be assessed in respect of the costs of another child who is in another child support case if the parent is liable to pay child support for that child under an administrative assessment under the law of a reciprocating jurisdiction.

**55H Working out the costs of the child**

For the purposes of section 55G, the *costs of a child* for a day in a child support period is:

- (a) if there is only one child support child—the costs of the children; and
- (b) otherwise—the costs of the children divided by the number of child support children.

**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.)

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- (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.
- (7) For the purposes of paragraph (2)(b), a parent is taken to be assessed in respect of the costs of another child who is in another child support case if the parent is liable to pay child support for that child under an administrative assessment under the law of a reciprocating jurisdiction.



## **Division 7—Assessments and estimates of adjusted taxable income**

### **Subdivision A—Preliminary**

#### **55J Simplified outline**

The following is a simplified outline of this Division:

- A parent's taxable income is generally the amount of taxable income that is assessed under an Income Tax Assessment Act.
- The Registrar may determine a parent's adjusted taxable income in certain circumstances.
- There are limits on the Registrar's ability to amend an assessment for past periods if the parent later lodges his or her tax return.
- A parent can estimate the amount of his or her adjusted taxable income for a year of income.

### **Subdivision B—Adjusted taxable income determined by reference to taxable income etc.**

#### **56 Taxable income is as assessed under Income Tax Assessment Act**

##### *Meaning of taxable income*

- (1) For the purposes of assessing a parent in respect of the costs of a child in relation to a child support period, if the parent's taxable income has been assessed under an Income Tax Assessment Act for the last relevant year of income in relation to the child support period, the parent's **taxable income** for that year is the amount as so assessed.

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Note: Sections 34A and 57 are also relevant to a person's taxable income.

*When amended tax assessment may be taken into account*

- (2) If, after an administrative assessment of child support is made, the assessment (the **tax assessment**) of a parent's taxable income is amended (whether or not because of an objection, appeal or review), the Registrar may amend the administrative assessment to take account of the amendment to the tax assessment.

*Retrospective determinations*

- (2A) An amendment of the administrative assessment under subsection (2) must be on the basis that the parent's adjusted taxable income for that year of income is, and has always been, the amount worked out as a result of the amended tax assessment if:
- (a) the parent's adjusted taxable income worked out as a result of the amended tax assessment is higher than the parent's previous adjusted taxable income; or
  - (b) the parent applied for the amendment of the tax assessment on or before:
    - (i) the day by which the parent was required to lodge his or her income tax return for that year of income with the Commissioner of Taxation (taking into account any deferral under section 388-55 in Schedule 1 to the *Taxation Administration Act 1953*); or
    - (ii) the end of 28 days after the parent was given the tax assessment (including an amended tax assessment) by the Commissioner of Taxation; or
    - (iii) the end of 28 days after the parent becomes aware that the tax assessment is not correct if the parent did not apply for the amendment on or before a day referred to in subparagraph (i) or (ii) because of circumstances beyond the knowledge or control of the parent; or
  - (c) the parent did not apply for the amendment of the tax assessment on or before any of the days referred to in paragraph (b), but the Registrar is satisfied that special circumstances exist.

*Prospective determinations*

- (2B) If subsection (2A) does not apply, an amendment of the administrative assessment under subsection (2) for a child support period must be on the basis that for each later day in the period the parent's adjusted taxable income for that year of income is the amount worked out as a result of the amended tax assessment.

*Date of assessment of a parent's taxable income taken to be date of notice of the assessment*

- (3) For the purposes of this section, if:
- (a) notice of an assessment (including an amended assessment) of a parent's taxable income under an Income Tax Assessment Act has been served on the parent under the *Income Tax Assessment Act 1936*; and
  - (b) the notice is dated;
- then the assessment is taken to have been made on the date of the notice.

*Section not to affect determinations, court orders or consent orders*

- (4) This section does not prevent:
- (a) the Registrar from making any determination under Part 6A (departure determinations); or
  - (b) a court from making any order under Division 4 of Part 7 (departure orders); or
  - (c) the making, and acceptance by the Registrar, of a child support agreement that includes provisions that have effect for the purposes of this Part as if they were such an order made by consent.

**57 Taxable income for child support purposes where taxable income determined to be nil under Income Tax Assessment Act**

- (1) This section does not apply to a parent for a year of income if the parent has a component of adjusted taxable income mentioned in paragraphs 43(1)(b) to (f) for the year of income.

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*Determinations that taxable income nil or no tax payable*

- (2) A parent's **taxable income** for a year of income is nil if the parent's taxable income for that year has been determined to be nil under an Income Tax Assessment Act.
- (3) A parent's **taxable income** for a year of income is also nil if:
- (a) the Commissioner has determined under an Income Tax Assessment Act that no tax was payable (before the allowance of any rebate or credit) under that Act on the parent's taxable income for the year of income; and
  - (b) either of the following subparagraphs applies in relation to the person:
    - (i) Part 1 of Schedule 7 to the *Income Tax Rates Act 1986* (or any other law prescribed by the regulations for the purposes of this paragraph in relation to the year of income) applied in relation to the parent for the year of income;
    - (ii) no tax would have been payable (before the allowance of any rebate or credit) under that Act by the person on his or her taxable income if Part 1 of Schedule 7 to the *Income Tax Rates Act 1986* (or any other law prescribed by the regulations for the purposes of this paragraph in relation to the year of income) had applied in relation to the parent for the year of income.
- (4) Subsections (2) and (3) do not apply in relation to an administrative assessment made in relation to a parent if:
- (a) before the administrative assessment is made; but
  - (b) after the most relevant notice mentioned in subsection (5) or (6) is made;
- an assessment is issued under the *Income Tax Assessment Act 1936* of the person's taxable income for the year of income under an Income Tax Assessment Act.

*Notices issued under the Income Tax Assessment Act 1936*

- (5) If a parent has been served a notice under the *Income Tax Assessment Act 1936* to the effect that the taxable income of the parent under an Income Tax Assessment Act for a year of income is nil, then:
- (a) the parent's taxable income for that year is taken to have been determined to be nil under an Income Tax Assessment Act; and
  - (b) if the notice was dated—the determination is taken to have been made on the date of the notice.
- (6) If a parent has been served a notice under the *Income Tax Assessment Act 1936* to the effect that no tax is payable (before the allowance of any rebate or credit) under an Income Tax Assessment Act on the taxable income of the parent for a year of income, then:
- (a) the Commissioner is taken to have determined under the Income Tax Assessment Act that no tax was payable (before the allowance of any rebate or credit) under that Act on the parent's taxable income for the year of income; and
  - (b) if the notice was dated—the determination is taken to have been made on the date of the notice.

*Higher taxable income to be taken into account*

- (7) If, after an administrative assessment of child support is made, the assessment (the **tax assessment**) of a parent's taxable income is amended (whether or not because of an objection, appeal or review) to determine a taxable income that is higher than nil, the Registrar must amend the administrative assessment on the basis that the parent's adjusted taxable income for that year of income is, and has always been, the amount worked out as a result of the amended tax assessment.

*Date of assessment of a parent's taxable income taken to be date of notice of the assessment*

- (8) For the purposes of this section, if:
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- (a) notice of an assessment (including an amended assessment) of a parent's taxable income under an Income Tax Assessment Act has been served on the parent under the *Income Tax Assessment Act 1936*; and
- (b) the notice is dated;

then the assessment is taken to have been made on the date of the notice.

*Section not to affect determinations, court orders or consent orders*

- (9) This section does not prevent:
  - (a) the Registrar from making any determination under Part 6A (departure determinations); or
  - (b) a court from making any order under Division 4 of Part 7 (departure orders); or
  - (c) the making, and acceptance by the Registrar, of a child support agreement that includes provisions that have effect for the purposes of this Part as if they were such an order made by consent.

**58 Determination by the Registrar of a parent's adjusted taxable income**

- (1) This section applies if a parent is to be assessed in respect of the costs of a child in relation to a child support period (the ***relevant period***) and either of the following apply:
  - (a) the parent's taxable income for the last relevant year of income in relation to the relevant period has not been assessed under an Income Tax Assessment Act;
  - (b) the Registrar is unable to ascertain whether or not the parent's taxable income for that year has been so assessed.

*Information or document in the possession of the Registrar etc.*

- (2) If:

- (a) the Registrar or the Commissioner of Taxation has information (whether oral or written) or a document in his or her possession; and
  - (b) either:
    - (i) an amount is specified in that information or document as the parent's adjusted taxable income for the last relevant year of income; or
    - (ii) that information or document allows the amount of the parent's adjusted taxable income for the last relevant year of income to be worked out; and
  - (c) the Registrar is satisfied that the specified amount, or the amount so worked out, is a reasonable approximation of the parent's adjusted taxable income for that year;
- the Registrar may determine that the specified amount, or the amount so worked out, is the parent's adjusted taxable income for that year.

*Parent not required to lodge a return*

- (2A) If:
  - (a) paragraph (1)(a) applies to the parent; and
  - (b) the Registrar is satisfied that the parent is not required, under section 161 of the *Income Tax Assessment Act 1936*, to give to the Commissioner of Taxation a return for the last relevant year of income;

the Registrar may determine that the parent's adjusted taxable income for the last relevant year of income is the amount under subsection (2B).
- (2B) The amount under this subsection is the amount that would be equal to one-third of the annualised MTAWWE figure for the relevant June quarter in relation to a child support period if that period were to start on 1 January during the parent's last relevant year of income in relation to the relevant period.

*Parent's taxable income assessed for the previous year of income*

- (3) If:
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- (a) the parent's taxable income for a year of income has been assessed under an Income Tax Assessment Act; and
- (b) that year (the *previous year*) is the year of income before the last relevant year of income;

the Registrar may determine that the parent's adjusted taxable income for the last relevant year of income is the amount worked out by multiplying the parent's adjusted taxable income for the previous year by the ATI indexation factor.

*Parent's taxable income assessed for an earlier year of income*

(4) If:

- (a) the parent's taxable income for the previous year has not been assessed under an Income Tax Assessment Act; but
- (b) the parent's taxable income for an earlier year of income has been so assessed;

the Registrar may determine that the parent's adjusted taxable income for the last relevant year of income is the greater of the following amounts:

- (c) the amount worked out by multiplying the parent's adjusted taxable income for the earlier year of income (or, if the parent's taxable income has been so assessed for more than one earlier year of income, the most recent of those years) by the ATI indexation factor;
- (d) the amount that is equal to two-thirds of the annualised MTAW figure for the relevant June quarter in relation to the relevant period.

*Other circumstances*

(5) If:

- (a) subsections (2), (2A), (3) and (4) do not apply in relation to the parent; or
- (b) the Registrar decides not to make a determination in relation to the parent under one of those subsections;

the Registrar may determine that the parent's adjusted taxable income for the last relevant year of income is an amount that is at



least two-thirds of the annualised MTAWWE figure for the relevant June quarter in relation to the relevant period.

**58AA *ATI indexation factor for determinations under section 58***

- (1) The *ATI indexation factor* is:

$$\frac{\text{AWE amount for the December quarter of the last relevant year of income}}{\text{AWE amount for the December quarter of the tax return year}}$$

where:

*AWE amount* for a December quarter of a year of income means the amount published for the reference period in the quarter by the Australian Statistician in a document titled “Average Weekly Earnings, Australia” (or, if that title changes, in a replacement document) under the headings “Average Weekly Earnings—Trend—Persons—All employees total earnings” (or, if any of those headings change, under any replacement headings).

*December quarter* of a year of income means the quarter ending on 31 December of that year.

*reference period* in a December quarter of a year of income means the period described by the Australian Statistician as the last pay period ending on or before the third Friday of the middle month of the quarter.

*tax return year* means:

- (a) if subsection 58(3) applies—the year of income before the last relevant year of income in relation to a child support period; or
  - (b) if subsection 58(4) applies—the earlier year of income that applies under paragraph 58(4)(c).
- (2) The *ATI indexation factor* is to be calculated to 3 decimal places (rounding up if the fourth decimal place is 5 or more).
- (3) If:

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- (a) the Australian Statistician publishes an AWE amount (the **later amount**) for a December quarter of a year of income; and
- (b) the later amount is published in substitution for an AWE amount for that quarter that was previously published by the Australian Statistician or that was applicable because of subsection (5);

the publication of the later amount is to be disregarded for the purposes of this section.

*Determination of amount by Minister*

- (4) If the Australian Statistician has not published an AWE amount for a December quarter of a year of income before the end of the first 31 March after the end of that quarter, the Minister may, by legislative instrument, determine an amount for that quarter.
- (5) If the Minister does so, the AWE amount for that quarter is taken to be the amount determined in the instrument under subsection (4) for that quarter.

**58A Subsequently ascertaining components of a parent's adjusted taxable income**

- (1) The Registrar must immediately amend an administrative assessment of child support payable by or to a parent in relation to a child support period if:
  - (a) the assessment was made on the basis of a determination under section 58; and
  - (b) either:
    - (i) the Registrar subsequently ascertains the amount of the parent's adjusted taxable income for the last relevant year of income; or
    - (ii) the Registrar makes a later determination under section 58; and
  - (c) either:

- (i) if subparagraph (b)(i) applies—the amount that was subsequently ascertained is different from the amount that was determined under section 58; or
- (ii) if subparagraph (b)(ii) applies—the later amount that the Registrar determines is different from the earlier amount determined under section 58.

*Retrospective determinations*

- (2) If:
- (a) at the time the Registrar is to amend the administrative assessment under this section, the parent could lodge his or her tax return by the date required under Part IV of the *Income Tax Assessment Act 1936* (taking into account any deferral under section 388-55 in Schedule 1 to the *Taxation Administration Act 1953*); or
  - (b) paragraph (a) of this subsection does not apply and:
    - (i) the amount subsequently ascertained, as mentioned in subparagraph (1)(b)(i), is higher than the amount that was determined under section 58; or
    - (ii) the later amount that the Registrar determines, as mentioned in subparagraph (1)(b)(ii), is higher than the earlier amount determined under section 58; 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;
- then the Registrar must immediately amend the administrative assessment for the child support period on the basis that the parent's adjusted taxable income for that year of income is, and has always been, the amount that was subsequently ascertained or later determined (as the case requires).

*Prospective determinations*

- (3) If subsection (2) does not apply, then the Registrar must immediately amend the administrative assessment for the child support period on the basis that for each later day in the period the parent's adjusted taxable income for that year of income is the

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amount that was subsequently ascertained or later determined (as the case requires).

- (3A) If, after an administrative assessment of child support is amended under subsection (2) or (3) because of subparagraph (1)(b)(i), the assessment (the *tax assessment*) of a parent's taxable income is amended (whether or not because of an objection, appeal or review), the Registrar may further amend the administrative assessment to take account of the amendment to the tax assessment.

*Amended tax assessments—retrospective determinations*

- (3B) An amendment of the administrative assessment under subsection (3A) must be on the basis that the parent's adjusted taxable income for that year of income is, and has always been, the amount worked out as a result of the amended tax assessment if:
- (a) the parent's adjusted taxable income worked out as a result of the amended tax assessment is higher than the amount determined under section 58; or
  - (b) the parent lodged his or her income tax return for that year of income with the Commissioner of Taxation on or before the day by which the parent was required to lodge the income tax return for that year (taking into account any deferral under section 388-55 in Schedule 1 to the *Taxation Administration Act 1953*) and:
    - (i) the parent applied for the amendment of the tax assessment on or before the day by which the parent was required to lodge his or her income tax return for that year; or
    - (ii) the parent applied for the amendment of the tax assessment before the end of 28 days after the parent was given the tax assessment (including an amended tax assessment) by the Commissioner of Taxation; or
    - (iii) the parent applied for the amendment of the tax assessment before the end of 28 days after the parent becomes aware that the tax assessment is not correct if the parent did not apply for the amendment on or before

- a day referred to in subparagraph (i) or (ii) because of circumstances beyond the knowledge or control of the parent; or
- (iv) the parent did not apply for the amendment of the tax assessment on or before any of the days referred to in subparagraph (i), (ii) or (iii), but the Registrar is satisfied that special circumstances exist.
- (3C) An amendment of the administrative assessment under subsection (3A) must be in accordance with subsection (3E) if:
- (a) subsection (3B) does not apply; and
  - (b) the parent's adjusted taxable income (the *later income*) worked out as a result of the amended tax assessment is:
    - (i) higher than the earlier ascertainment of the parent's taxable income; but
    - (ii) lower than the amount determined under section 58.
- (3D) An amendment of the administrative assessment under subsection (3A) must be in accordance with subsection (3E) if:
- (a) subsection (3B) does not apply; and
  - (b) the parent's adjusted taxable income (the *later income*) worked out as a result of the amended tax assessment is lower than both the earlier ascertainment of the parent's taxable income and the amount determined under section 58; and
  - (c) any of the following applies:
    - (i) the parent applied for the amendment of the tax assessment before the end of 28 days after the parent was given the tax assessment (including an amended tax assessment) by the Commissioner of Taxation;
    - (ii) the parent applied for the amendment of the tax assessment before the end of 28 days after the parent becomes aware that the tax assessment is not correct if the parent did not apply for the amendment on or before a day referred to in subparagraph (i) because of circumstances beyond the knowledge or control of the parent;

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(iii) the parent did not apply for the amendment of the tax assessment on or before either of the days referred to in subparagraph (i) or (ii), but the Registrar is satisfied that special circumstances exist.

(3E) If subsection (3C) or (3D) applies, the amendment of the administrative assessment under subsection (3A) must be on the basis of the later income from the day the earlier ascertainment of the parent's adjusted taxable income took effect.

*Amended tax assessments—prospective determinations*

(3F) If none of subsections (3B), (3C) nor (3D) applies, an amendment of the administrative assessment under subsection (3A) for a child support period must be on the basis that for each later day in the period the parent's adjusted taxable income for that year of income is the amount worked out as a result of the amended tax assessment.

*No taxation assessment required*

(4) This section applies whether or not the Commissioner of Taxation has made an assessment under an Income Tax Assessment Act of the parent's taxable income for that year of income.

**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 MTAW figure for the relevant June quarter.

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**Subdivision C—Child support income determined by reference to parent’s estimate of adjusted taxable income**

**60 Parent may elect to estimate his or her adjusted taxable income for a year of income**

- (1) A parent may, before a year of income starts or during a year of income, elect that the parent’s adjusted taxable income for the year of income is to be the amount that applies under subsection (2) or (3) if:
  - (a) the parent is to be assessed in respect of the costs of a child of the parent for a day in a child support period; and
  - (b) the amount that would apply under that subsection is not more than 85% of:
    - (i) 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
    - (ii) an amount that 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 the Registrar is satisfied that the declared amount is correct.

*Estimate for a whole year of income*

- (2) If the parent makes the election under subsection (1) before the year of income starts or on the first day of the year of income, the amount is the total of the following amounts (the **income component amounts**) as estimated by the parent:
  - (a) the parent’s taxable income for the year, disregarding any assessable FHSS released amount (within the meaning of the *Income Tax Assessment Act 1997*) that may be included in the parent’s assessable income for the year;
  - (b) the parent’s reportable fringe benefits total for the year;
  - (c) the parent’s target foreign income for the year;
  - (d) the parent’s total net investment loss (within the meaning of the *Income Tax Assessment Act 1997*) for the year;



- (e) the total of the tax free pensions or benefits received by the parent in the year;
- (f) the parent's reportable superannuation contributions (within the meaning of the *Income Tax Assessment Act 1997*) for the year.

*Estimate for a part of a year of income etc.*

- (3) If the parent makes the election under subsection (1) during the year of income but not on the first day of the year of income:
  - (a) the parent is to use the method in subsection (4) to work out the amount; and
  - (b) the parent is to estimate each income component amount for the parent for the period that:
    - (i) started on the first day of the year of income; and
    - (ii) ended at the end of the day before the start day for the election.
- (4) For the purposes of paragraph (3)(a), the method is as follows:

*Method statement*

- Step 1. Estimate each income component amount for the parent for the period (the ***remaining period***):
  - (a) starting on the start day for the election; and
  - (b) ending at the end of the last day of the year of income.
- Step 2. Add up those amounts. The result is the ***partial year income amount***.
- Step 3. Divide the partial year income amount by the number of days in the remaining period.
- Step 4. Multiply the quotient by 365.

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- (5) The start day for the election must be:
- (a) the day on which the parent makes the election; or
  - (b) the first day of a child support period, so long as that day is not before the day referred to in paragraph (a).

*No election if an income amount order is in force*

- (6) Despite subsection (1), a parent may not make an election if an income amount order is in force in relation to:
- (a) the parent; and
  - (b) if the parent were to make such an election—any part of the period that would be the application period for the election.

*How election is made*

- (7) The parent makes the election under subsection (1) by giving notice of it to the Registrar in the manner specified by the Registrar.
- (8) The notice must specify:
- (a) the amount that applies under subsection (2) or (3); and
  - (b) if subsection (2) applies—each of the income component amounts estimated by the parent under that subsection; or
  - (c) if subsection (3) applies:
    - (i) the day that is the start day for the election; and
    - (ii) each of the income component amounts estimated by the parent under paragraph (3)(b) and under step 1 of the method statement in subsection (4).

**61 Effect of election**

- (1) If:
- (a) a parent makes an election under subsection 60(1) relating to a year of income; and
  - (b) the parent is to be assessed in respect of the costs of a child of the parent for a day in a child support period; and
  - (c) the day occurs in the application period for the election;

then, for the purposes of so assessing the parent, the parent's **adjusted taxable income** is the amount that applies under subsection 60(2) or 60(3).

- (1A) The **application period** for an election under subsection 60(1) relating to a year of income is the period that:
- (a) starts:
    - (i) if the parent made the election before the year of income started or on the first day of the year of income—on the first day of that year of income; or
    - (ii) otherwise—on the start day for the election; unless the election is revoked before that day; and
  - (b) ends:
    - (i) at the end of the last day of that year of income; or
    - (ii) if the parent revokes the election before that day and makes another election (the **later election**) under subsection 62A(1) relating to the year of income—at the end of the day before the start day for the later election.
- (2) Subsection (1) has effect subject to an income amount order that is made after the making of the election that applies in relation to the parent and any part of the application period for the election.
- (3) The Registrar must immediately take such action as is necessary to give effect to subsection (1) in relation to any administrative assessment that has been made in relation to the parent (whether by amending the assessment or otherwise).
- (4) Subject to section 63, in subsequently making any administrative assessment in relation to the parent, the Registrar must act in accordance with this section.
- (5) This section does not prevent:
- (a) the Registrar making any determination under Part 6A (departure determinations); or
  - (b) a court making any order under Division 4 of Part 7 (departure orders); or

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- (c) the making, and acceptance by the Registrar, of a child support agreement that includes provisions that have effect for the purposes of this Part as if they were such an order made by consent.

**62 Revocation of income election**

- (1) A parent who has made an income election relating to a year of income may, by notice given to the Registrar, revoke the income election.

Note: If the application period for the income election has started, the parent must make a new election under subsection 62A(1).

- (2) The notice must be given in the manner specified by the Registrar.

Note: Section 150A provides for the Registrar to specify the manner in which a notice may be given.

**62A Parent must elect a new estimate of his or her adjusted taxable income for a year of income**

- (1) If:
  - (a) under subsection 62(1), a parent revokes an income election (the *earlier election*) relating to a year of income; and
  - (b) at the time of the revocation, the application period for the earlier election has started;

the parent must elect that the parent's adjusted taxable income for the year of income is to be the amount the parent works out as follows:

*Method statement*

Step 1. Estimate each income component amount for the parent for the period (the *remaining period*):

- (a) starting on the start day for the election made under this subsection; and

	(b) ending at the end of the last day of the year of income.
Step 2.	Add up those amounts. The result is the <i>partial year income amount</i> .
Step 3.	Divide the partial year income amount by the number of days in the remaining period.
Step 4.	Multiply the quotient by 365.

*Start day*

- (2) Subject to subsection (3), the start day for the election under subsection (1) must be the day on which the parent makes that election.
- (3) If:
- (a) an event affecting the accuracy of an estimate on which the earlier election is based has occurred; and
  - (b) the amount that would be worked out under subsection (1) for an election under that subsection if the start day for that election was the day on which the event occurred is more than:
    - (i) if subsection 60(2) or (3) applied to the earlier election—the amount that applied under that subsection; or
    - (ii) if the earlier election was made under subsection (1) of this section—the amount worked out under that subsection;

the start day for the election under subsection (1) of this section must be the day on which the event occurred.

*How election is made*

- (4) The parent makes the election under subsection (1) by giving notice of it to the Registrar in the manner specified by the Registrar.

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- (5) The notice must specify:
- (a) the amount worked out under subsection (1); and
  - (b) the day that is the start day for the election under that subsection; and
  - (c) each of the income component amounts estimated by the parent under step 1 of the method statement in that subsection.

### 63 Effect of later election

- (1) If:
- (a) a parent makes an election under subsection 62A(1) relating to the year of income; and
  - (b) the parent is to be assessed in respect of the costs of a child of the parent for a day in a child support period; and
  - (c) the day occurs in the application period for the election;
- then, for the purposes of so assessing the parent, the parent's **adjusted taxable income** is the amount worked out under that subsection.
- (2) The **application period** for an election under subsection 62A(1) relating to a year of income is the period that:
- (a) starts on the start day for the election unless the election is revoked before that day; and
  - (b) ends:
    - (i) at the end of the last day of the year of income; or
    - (ii) if the parent revokes the election before that day and makes another election (the **later election**) under subsection 62A(1) relating to the year of income—at the end of the day before the start day for the later election.
- (2A) Subsection (1) has effect subject to an income amount order that applies in relation to the parent and any part of the application period for the later election.
- (3) The Registrar must immediately take such action as is necessary to give effect to subsection (1) in relation to any administrative

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assessment that has been made in relation to the parent (whether by amending the assessment or otherwise).

- (4) Subject to any further election made under subsection 62A(1), in subsequently making any administrative assessment in relation to the parent, the Registrar must act in accordance with subsection (1).
- (5) This section does not prevent:
  - (a) the Registrar making any determination under Part 6A (departure determinations); or
  - (b) a court making any order under Division 4 of Part 7 (departure orders); or
  - (c) the making, and acceptance by the Registrar, of a child support agreement that includes provisions that have effect for the purposes of this Part as if they were such an order made by consent.

**63AA Registrar may refuse to accept an income election**

- (1) If:
  - (a) a parent makes an income election to which subsection 60(2) applies; and
  - (b) the Registrar is satisfied that the amount worked out under that subsection is less than the amount that the Registrar considers is likely to be the parent's actual adjusted taxable income for the year of income to which the income election relates;the Registrar may refuse to accept the income election.
- (2) The Registrar may refuse to accept a parent's income election to which subsection 60(3) applies if the Registrar is satisfied that:
  - (a) the partial year income amount for the income election is less than the amount that the Registrar considers is likely to be the parent's actual adjusted taxable income for the remaining period in relation to the income election; or
  - (b) the total of the income component amounts estimated by the parent under paragraph 60(3)(b) for the period referred to in

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that paragraph is more than the amount that the Registrar considers is likely to be the total of the actual income component amounts for the parent for that period.

- (3) If:
- (a) a parent makes an election under subsection 62A(1); and
  - (b) the Registrar is satisfied that the partial year income amount for the income election is less than the amount that the Registrar considers is likely to be the parent's actual adjusted taxable income for the remaining period in relation to the income election;
- the Registrar may refuse to accept the income election.
- (4) In making the decision as to whether to refuse to accept the income election, the Registrar:
- (a) may act on the basis of information that the Registrar has received or obtained as to the financial circumstances of the parent; and
  - (b) may, but is not required to, conduct an inquiry into the matter.
- (5) Except for the purposes of Parts VII, VIIA and VIII of the Registration and Collection Act (dealing with objections and appeals), if the Registrar refuses to accept the income election, the election is taken never to have been made.

**63AB Notice to be given if Registrar refuses to accept an income election**

- (1) If the Registrar refuses under section 63AA to accept an income election, the Registrar must give written notice of the decision to the parent who sought to make the income election.
- (2) The notice must include, or be accompanied by, a statement to the effect:
- (a) that the parent may, subject to the Registration and Collection Act, object to the particulars of the assessment in



relation to which the parent sought to make the income election; and

- (b) that if the parent is aggrieved by the decision on the objection, he or she may, subject to that Act and the ART Act, apply to the ART for review of the decision.
- (3) A contravention of subsection (2) in relation to a decision does not affect the validity of the decision.

### **Subdivision D—Year to date income amounts**

#### **63AC Parent may elect a new year to date income amount**

- (1) If:
    - (a) either of the following apply:
      - (i) a parent has made an election relating to a year of income under subsection 60(1) to which subsection 60(3) applies;
      - (ii) a parent has made an election in relation to a year of income under this subsection; and
    - (b) the parent becomes satisfied that the following amount (the **year to date income amount**) is incorrect:
      - (i) if subparagraph (a)(i) applies—the total of the income component amounts estimated by the parent under paragraph 60(3)(b);
      - (ii) if subparagraph (a)(ii) applies—the amount specified under paragraph (3)(a) of this section in the notice of the election; and
    - (c) sections 64, 64A, 64AC and 64AD do not apply in relation to the parent;the parent may elect another amount (the **new amount**) to replace the year to date income amount for the year of income.
  - (2) The parent makes the election under subsection (1) by giving notice of it to the Registrar in the manner specified by the Registrar.
  - (3) The notice must specify:
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- (a) the new amount; and
- (b) the parent's estimate of each income component amount for the period referred to in paragraph 60(3)(b).

**63AD Registrar may refuse to accept an election of a new year to date income amount**

*Refusal to accept election*

- (1) The Registrar may refuse to accept an election made by a parent under subsection 63AC(1) if the Registrar is satisfied that the amount specified under paragraph 63AC(3)(a) in the notice of the election is more than the amount that the Registrar considers is likely to be the total of the actual income component amounts for the parent for the period referred to in paragraph 60(3)(b).
- (2) In making the decision as to whether to refuse to accept the election, the Registrar:
  - (a) may act on the basis of information that the Registrar has received or obtained as to the financial circumstances of the parent; and
  - (b) may, but is not required to, conduct an inquiry into the matter.
- (3) Except for the purposes of Parts VII, VIIA and VIII of the Registration and Collection Act (dealing with objections and appeals), if the Registrar refuses to accept the election, the election is taken never to have been made.

*Notice of refusal*

- (4) If the Registrar refuses under subsection (1) to accept a parent's election made under subsection 63AC(1), the Registrar must give written notice of the decision to the parent.
- (5) The notice must include, or be accompanied by, a statement to the effect:

- (a) that the parent may, subject to the Registration and Collection Act, object to the decision (the *original decision*); and
  - (b) that if the parent is aggrieved by a later decision on the objection to the original decision, he or she may, subject to that Act and the ART Act, apply to the ART for review of the later decision.
- (6) A contravention of subsection (5) in relation to a decision does not affect the validity of the decision.

### **63AE Registrar may determine a new year to date income amount**

- (1) If:
- (a) any of the following apply:
    - (i) a parent has made an election relating to a year of income under subsection 60(1) to which subsection 60(3) applies;
    - (ii) a parent has made an election in relation to a year of income under subsection 63AC(1);
    - (iii) the Registrar has made a determination under this subsection in relation to a parent and a year of income; and
  - (b) the Registrar becomes satisfied that the following amount (the *year to date income amount*) is incorrect:
    - (i) if subparagraph (a)(i) applies—the total of the income component amounts estimated by the parent under paragraph 60(3)(b);
    - (ii) if subparagraph (a)(ii) applies—the amount specified under paragraph 63AC(3)(a) in the notice of the election;
    - (iii) if subparagraph (a)(iii) applies—the amount specified in the determination;
- the Registrar may determine another amount to replace the year to date income amount for the year of income.

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- (2) If the Registrar makes a determination in relation to a parent under subsection (1), the Registrar must give written notice of the determination to the parent.
- (3) The notice must include, or be accompanied by, a statement to the effect:
  - (a) that the parent may, subject to the Registration and Collection Act, object to the determination; and
  - (b) that if the parent is aggrieved by the decision on the objection, he or she may, subject to that Act and the ART Act, apply to the ART for review of the decision.
- (4) A contravention of subsection (3) in relation to a determination does not affect the validity of the determination.

**63AF Parent's applicable YTD income amount**

- (1) If:
  - (a) a parent has made an election relating to a year of income under subsection 60(1) to which subsection 60(3) applies; and
  - (b) subsection (2) of this section does not apply in relation to the parent;the total of the income component amounts estimated by the parent under paragraph 60(3)(b) is the parent's **applicable YTD income amount** for that year.
- (2) If either or both of the following have occurred:
  - (a) a parent has made one or more elections in relation to a year of income under subsection 63AC(1);
  - (b) the Registrar has made one or more determinations under subsection 63AE(1) in relation to a parent and a year of income;the parent's **applicable YTD income amount** for the year of income is:
  - (c) the amount specified under paragraph 63AC(3)(a) in the notice of such an election, if that election was the last of those elections or determinations to be made; or

- (d) the amount determined in such a determination, if that determination was the last of those elections or determinations to be made.

## **Subdivision E—Amendment of assessments**

### **63A Amendment of assessment based on income election if event affecting accuracy of estimate occurs**

- (1) This section allows the Registrar to amend an assessment of child support payable by or to a parent for some days in a child support period if:
  - (a) those days occur in the application period for an income election that the parent has made; and
  - (b) the Registrar has given the parent a notice under section 160 or subsection 162A(2) requiring or requesting the parent to notify the Registrar of the occurrence of an event that may affect the accuracy of an estimate on which the election is based.
- (2) If the parent gives notice of the event as required or requested under section 160 or subsection 162A(2), the Registrar may amend the assessment to affect the annual rate of child support payable by or to the parent for those days in the child support period that occur on or after the day the parent gives notice.
- (3) If the parent does not give notice of the event as required or requested under section 160 or subsection 162A(2), the Registrar may amend the assessment to affect the annual rate of child support payable by or to the parent for those days in the child support period that occur on or after the day the event occurred.
- (4) This section does not:
  - (a) affect the operation of section 160 or 162A; or
  - (b) prevent the Registrar from making a new assessment for part of the child support period.

Note: This section does not limit the power under section 75 to amend assessments (see subsection 75(5)).

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**63B Amendment of assessment based on income election if Registrar asks for information supporting estimate**

- (1) This section allows the Registrar to amend an assessment of child support payable by or to a parent for some days in a child support period if:
  - (a) those days occur in the application period for an income election that the parent has made; and
  - (b) the Registrar has given the parent a notice under section 161 or subsection 162A(1) or (4) requiring or requesting the parent to:
    - (i) give the Registrar information; or
    - (ii) attend before a person and answer questions; or
    - (iii) produce documents containing information; relevant to determining the accuracy of an estimate on which the election is based.
- (2) If the parent complies with section 161 or subsection 162A(1) or (4) (in relation to the notice), the Registrar may amend the assessment to affect the annual rate of child support payable by or to the parent for those days in the child support period that occur on or after the day the parent complies.
- (3) If the parent does not comply with section 161 or subsection 162A(1) or (4) (in relation to the notice), the Registrar may amend the assessment to affect the annual rate of child support payable by or to the parent for those days in the child support period that occur on or after:
  - (a) the day the income election was made; or
  - (b) if:
    - (i) before the Registrar gave the notice but after the income election was made, the Registrar had given the parent another notice (the *earlier notice*) of the kind described in paragraph (1)(b); and
    - (ii) the parent complied with section 161 or subsection 162A(1) or (4) in relation to the earlier notice;

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the day on which the parent complied with section 161 or subsection 162A(1) or (4) in relation to the earlier notice.

- (4) This section does not:
- (a) affect the operation of section 161 or 162A; or
  - (b) prevent the Registrar from making a new assessment for part of the child support period.

Note: This section does not limit the power under section 75 to amend assessments (see subsection 75(5)).

**63C Amendment of assessment in minimum rate cases**

- (1) This section allows the Registrar to amend an assessment of child support payable by a parent for all the children in a child support case for some days in a child support period if:
- (a) those days occur in the application period for an income election that the parent has made; and
  - (b) the application period has ended; and
  - (c) the annual rate of child support payable by the parent for all the children in the child support case for those days was the minimum annual rate for the period or lower.
- (2) The Registrar may amend the assessment to affect the annual rate of child support payable by the parent for those days.
- (3) This section does not prevent the Registrar from making a new assessment for part of the child support period.

Note: This section does not limit the power under section 75 to amend assessments (see subsection 75(5)).

## **Division 7A—Reconciliation of estimates of adjusted taxable income**

### **Subdivision A—Reconciliation using a parent’s actual adjusted taxable income**

#### **64 Reconciliation using a parent’s actual adjusted taxable income—single income election**

- (1) This section applies for the purposes of assessing a parent in relation to the costs of a child of the parent for a day in a child support period if:
  - (a) the day occurs in the application period for an income election relating to a year of income that was made by the parent; and
  - (b) the parent did not make more than one income election relating to the year of income; and
  - (c) the parent’s actual adjusted taxable income for the year of income has been ascertained by the Registrar; and
  - (d) if the Registrar has made a determination under subsection 64AB(1) in relation to the parent—the parent’s actual adjusted taxable income for the year of income is more than the parent’s determined ATI for that year; and
  - (e) if, under section 63A, 63B or 63C, the Registrar has amended an assessment of child support payable by or to the parent—the Registrar determines that this section should apply in relation to the parent.

#### *Reconciliation—election for a whole year of income*

- (2) Subject to this section, if:
  - (a) subsection 60(2) applied to the income election; and
  - (b) the parent’s actual adjusted taxable income for the year of income is more than the amount that applied under that subsection;



the parent's adjusted taxable income for that year is taken to be, and to have always been, the parent's actual adjusted taxable income for that year.

*Reconciliation—election for a part of a year of income*

- (3) Subject to this section, if:
- (a) subsection 60(3) applied to the income election; and
  - (b) the difference between:
    - (i) the parent's actual adjusted taxable income for the year of income; and
    - (ii) the parent's applicable year to date income amount for the year of income;is more than the partial year income amount worked out by the parent under subsection 60(4);
- the parent's adjusted taxable income for a day that occurs in the application period for the income election is taken to be, and to have always been, the amount worked out under subsection (4).
- (4) For the purposes of subsection (3), the amount is worked out by:
- (a) dividing the amount worked out under paragraph (3)(b) by the number of days in the remaining period to which the income election related; and
  - (b) multiplying the quotient by 365.

*Income amount orders*

- (5) This section does not apply if an income amount order applies in relation to the parent and any part of the application period for the income election.

**64A Reconciliation using a parent's actual adjusted taxable income—more than one income election**

- (1) This section applies for the purposes of assessing a parent in relation to the costs of a child of the parent for a day in a child support period if:

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- (a) the day occurs in the application period for an income election relating to a year of income that was made by the parent; and
- (b) the parent made more than one income election relating to the year of income; and
- (c) the parent's actual adjusted taxable income for the year of income has been ascertained by the Registrar; and
- (d) if the Registrar has made a determination under subsection 64AB(1) in relation to the parent—the parent's actual adjusted taxable income for the year of income is more than the parent's determined ATI for that year; and
- (e) if, under section 63A, 63B or 63C, the Registrar has amended an assessment of child support payable by or to the parent—the Registrar determines that this section should apply in relation to the parent.

*Reconciliation*

- (2) Subject to this section, if the difference (the **actual ATI amount**) between:
  - (a) the parent's actual adjusted taxable income for the year of income; and
  - (b) the parent's applicable year to date income amount (if any) for the year of income;

is more than the parent's estimated ATI amount for the year of income, then the parent's adjusted taxable income for a day that occurs in the application period of each income election made by the parent is taken to be, and to have always been, the amount worked out for that income election using the method in subsection (4).

*Estimated ATI amount*

- (3) The parent's **estimated ATI amount** for the year of income is worked out using the following method:

*Method statement*

- Step 1. For each income election relating to the year of income that had an application period that ended before the last day of the year of income:
- (a) if subsection 60(2) applied to the income election—divide the amount that applied under that subsection by 365; or
  - (b) otherwise—divide the partial year income amount worked out under subsection 60(4) or 62A(1) by the number of days in the remaining period to which the income election related.
- Step 2. For each of those income elections, multiply the result of step 1 by the number of days in the application period for the income election.
- Step 3. Add up each of the amounts worked out under step 2.
- Step 4. Add the result of step 3 and the partial year income amount worked out under subsection 62A(1) for the last income election relating to the year of income that was made by the parent.

*Amount for the purposes of subsection (2)*

- (4) For the purposes of subsection (2), the amount for each income election is worked out using the following method:

*Method statement*

- Step 1. Subtract the parent's estimated ATI amount from the parent's actual ATI amount.

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- Step 2. Divide the result by the total number of days in the application periods for each income election relating to the year of income that was made by the parent. The result is the *additional daily rate*.
- Step 3. For each of those income elections, multiply the additional daily rate by the number of days in the application period for the income election. The result is the *underestimated amount* for the income election.
- Step 4. For each of those income elections, add the underestimated amount for the income election and:
- (a) if the income election had an application period that ended before the last day of the year of income—the amount worked out for the income election under step 2 of the method statement in subsection (3); or
  - (b) otherwise—the partial year income amount worked out under subsection 62A(1) for the income election.
- Step 5. For each of those income elections:
- (a) divide the result of step 4 by the number of days in the application period for the income election; and
  - (b) multiply the quotient by 365.

*Income amount orders*

- (5) This section does not apply if an income amount order applies in relation to the parent and any part of an application period for any of the income elections.

### **64AA Action by Registrar following reconciliation**

The Registrar is to take such action as is necessary to give effect to section 64 or 64A in relation to a parent (whether by amending any administrative assessment that has been made in relation to the parent or otherwise).

### **Subdivision B—Reconciliation using a parent’s determined ATI**

#### **64AB Registrar to determine a parent’s adjusted taxable income for the purposes of reconciliation**

- (1) If:
  - (a) a parent made an income election relating to a year of income; and
  - (b) at the end of the period ending 12 months after the end of the year of income, the Registrar has not ascertained the parent’s actual adjusted taxable income for that year;the Registrar may determine that an amount that the Registrar considers appropriate is the parent’s adjusted taxable income for that year for the purposes of this Subdivision.
- (2) If the Registrar makes a determination under subsection (1) in relation to a parent:
  - (a) the amount determined is the parent’s *determined ATI* for the year of income; and
  - (b) the Registrar must give notice of the determination to the parent.
- (3) The notice must include, or be accompanied by, a statement to the effect:
  - (a) that the parent may, subject to the Registration and Collection Act, object to the particulars of the assessment to which the determination relates; and

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- (b) that if the parent is aggrieved by the decision on the objection, he or she may, subject to that Act and the ART Act, apply to the ART for review of the decision.
- (4) A contravention of subsection (3) in relation to a determination does not affect the validity of the determination.

**64AC Reconciliation using a parent's determined ATI—single income election**

- (1) This section applies for the purposes of assessing a parent in relation to the costs of a child of the parent for a day in the child support period if:
  - (a) the day occurs in the application period for an income election relating to a year of income that was made by the parent; and
  - (b) the parent did not make more than one income election relating to the year of income; and
  - (c) the Registrar makes a determination under subsection 64AB(1) in relation to the parent; and
  - (d) if, under section 63A, 63B or 63C, the Registrar has amended an assessment of child support payable by or to the parent—the Registrar determines that this section should apply in relation to the parent.

*Reconciliation—election for a whole year of income*

- (2) Subject to this section, if:
  - (a) subsection 60(2) applied to the income election; and
  - (b) the parent's determined ATI for the year of income is more than the amount that applied under that subsection;the parent's adjusted taxable income for that year is taken to be, and to have always been, the parent's determined ATI for that year.

*Reconciliation—election for a part of a year of income*

- (3) Subject to this section, if:
  - (a) subsection 60(3) applied to the income election; and

- (b) the difference between:
- (i) the parent's determined ATI for the year of income; and
  - (ii) the parent's applicable year to date income amount for the year of income;
- is more than the partial year income amount worked out by the parent under subsection 60(4);
- the parent's adjusted taxable income for a day that occurs in the application period for the income election is taken to be, and to have always been, the amount worked out under subsection (4).
- (4) For the purposes of subsection (3), the amount is worked out by:
- (a) dividing the amount worked out under paragraph (3)(b) by the number of days in the remaining period to which the income election related; and
  - (b) multiplying the quotient by 365.

*Income amount orders*

- (5) This section does not apply if an income amount order applies in relation to the parent and any part of the application period for the income election.

**64AD Reconciliation using a parent's determined ATI—more than one income election**

- (1) This section applies for the purposes of assessing a parent in relation to the costs of a child of the parent for a day in a child support period if:
- (a) the day occurs in the application period for an income election relating to a year of income that was made by the parent; and
  - (b) the parent made more than one income election relating to the year of income; and
  - (c) the Registrar makes a determination under subsection 64AB(1) in relation to the parent; and
  - (d) if, under section 63A, 63B or 63C, the Registrar has amended an assessment of child support payable by or to the parent—

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the Registrar determines that this section should apply in relation to the parent.

*Reconciliation*

- (2) Subject to this section, if the difference (the **actual ATI amount**) between:

- (a) the parent's determined ATI for the year of income; and
- (b) the parent's applicable year to date income amount (if any) for the year of income;

is more than the parent's estimated ATI amount for the year of income, then the parent's adjusted taxable income for a day that occurs in the application period of each income election made by the parent is taken to be, and to have always been, the amount worked out for that income election using the method in subsection (4).

*Estimated ATI amount*

- (3) The parent's **estimated ATI amount** for the year of income is worked out using the following method:

*Method statement*

Step 1. For each income election relating to the year of income that had an application period that ended before the last day of the year of income:

- (a) if subsection 60(2) applied to the income election—divide the amount that applied under that subsection by 365; or
- (b) otherwise—divide the partial year income amount worked out under subsection 60(4) or 62A(1) by the number of days in the remaining period to which the income election related.



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- Step 2. For each of those income elections, multiply the result of step 1 by the number of days in the application period for the income election.
- Step 3. Add up each of the amounts worked out under step 2.
- Step 4. Add the result of step 3 and the partial year income amount worked out under subsection 62A(1) for the last income election relating to the year of income that was made by the parent.

*Amount for the purposes of subsection (2)*

- (4) For the purposes of subsection (2), the amount for each income election is worked out using the following method:

*Method statement*

- Step 1. Subtract the parent's estimated ATI amount from the parent's determined ATI.
- Step 2. Divide the result by the total number of days in the application periods for each income election relating to the year of income that was made by the parent. The result is the **additional daily rate**.
- Step 3. For each of those income elections, multiply the additional daily rate by the number of days in the application period for the income election. The result is the **underestimated amount** for the income election.
- Step 4. For each of those income elections, add the underestimated amount for the income election and:
- (a) if the income election had an application period that ended before the last day of the year of income—the amount worked out for the income

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	election under step 2 of the method statement in subsection (3); or
(b)	otherwise—the partial year income amount worked out under subsection 62A(1) for the income election.
Step 5.	For each of those income elections:
(a)	divide the result of step 4 by the number of days in the application period for the income election; and
(b)	multiply the quotient by 365.

*Income amount orders*

- (5) This section does not apply if an income amount order applies in relation to the parent and any part of an application period for any of the income elections.

**64AE Action by Registrar following reconciliation**

The Registrar is to take such action as is necessary to give effect to sections 64AC and 64AD in relation to a parent (whether by amending any administrative assessment that has been made in relation to the parent or otherwise).

**Subdivision C—Penalty**

**64AF Penalty if a parent underestimates an income amount**

- (1) A parent is liable to pay the Registrar a penalty if:
- (a) the parent made an income election relating to a year of income; and
  - (b) the parent's actual adjusted taxable income for the year of income has been ascertained by the Registrar; and
  - (c) the parent has underestimated an income amount in making the income election.

- (2) If the parent did not make more than one income election relating to the year of income, the parent has ***underestimated an income amount*** in making the income election if:
- (a) in a case where subsection 60(2) applied to the income election—the parent’s actual adjusted taxable income for the year of income is at least 110% of the amount that applied under that subsection; or
  - (b) in a case where subsection 60(3) applied to the income election—the amount worked out by subtracting:
    - (i) the parent’s applicable year to date income amount for the year of income; from
    - (ii) the parent’s actual adjusted taxable income for the year of income;is at least 110% of the partial year income amount worked out by the parent under subsection 60(4).
- (3) If the parent made more than one income election relating to the year of income, the parent has ***underestimated an income amount*** in making the income elections if the amount worked out by subtracting:
- (a) the parent’s applicable year to date income amount (if any) for the year of income; from
  - (b) the parent’s actual adjusted taxable income for the year of income;
- is at least 110% of the parent’s estimated ATI amount for the year of income worked out under subsection 64A(3).

### **64AG Amount of penalty**

- (1) If a parent is liable under subsection 64AF(1) to pay a penalty, the amount of the penalty for each income election made by the parent relating to the year of income is 10% of the difference between:
- (a) the administrative assessment of child support made under section 64AA in relation to the parent; and
  - (b) the administrative assessment of child support that would have been made if it were based entirely on the amount that

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applied under subsection 60(2) or (3), or that was worked out under subsection 62A(1).

- (2) The penalty is a debt due to the Commonwealth by the parent and is due and payable on the issue of the administrative assessment of child support made under section 64AA in relation to the parent.

**64AH Remission of penalty**

- (1) The Registrar may remit the whole or a part of a penalty that a parent who made an income election is liable to pay under subsection 64AF(1) if:
  - (a) the parent underestimated an income amount in making the income election because of an amendment of an Income Tax Assessment Act, or because of a ruling or determination under that Act; or
  - (b) the parent underestimated an income amount in making the income election for some other reason, and the Registrar is satisfied that it would be fair and reasonable in the circumstances to remit the whole or that part of the penalty.
- (2) If the Registrar makes a decision to remit only part of the penalty, or not to remit any part of the penalty, the Registrar must give written notice of the decision to the parent by whom the penalty is, or but for the remission would be, payable.
- (3) The notice must include, or be accompanied by, a statement to the effect:
  - (a) that the parent may, subject to the Registration and Collection Act, object to the decision (the *original decision*); and
  - (b) that if the parent is aggrieved by a later decision on an objection to the original decision, he or she may, subject to that Act and the ART Act, apply to the ART for review of the later decision.
- (4) A contravention of subsection (3) in relation to a decision does not affect the validity of the decision.

## **Division 8—Provisions relating to the making of assessments**

### **Subdivision A—Preliminary**

#### **64B Simplified outline**

The following is a simplified outline of this Division:

- In making an administrative assessment, the Registrar may act on the basis of the documents and information in his or her possession.
- In some cases, the Registrar may assess, under this Division, the annual rate of child support for a child that is payable by a parent who is not receiving an income support payment.
- The Registrar may also assess, under this Division, the annual rate of child support payable by a parent for all the children in a child support case as the minimum annual rate of child support.
- Subdivision C contains rules relating to making administrative assessments (such as when the Registrar can amend an administrative assessment and when the Registrar needs to give a notice of assessment).

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**Subdivision B—Annual rates of child support for low income parents and minimum annual rates of child support**

**65A Annual rate of child support for low income parents not on income support**

*Assessment of annual rate*

- (1) The Registrar must assess an annual rate of child support payable by a parent for a child for a day in a child support period as the rate specified in subsection (2) if:
  - (a) the parent did not receive an income support payment during the last relevant year of income; and
  - (b) the following amount is less than the pension PP (single) maximum basic amount:
    - (i) if subparagraph (ii) does not apply—the parent’s adjusted taxable income determined in accordance with section 43 for the last relevant year of income for the child support period;
    - (ii) if the day occurs in the application period for an income election made by the parent—the amount that applied under subsection 60(2) or (3), or that was worked out under subsection 62A(1); and
  - (c) the parent does not have at least shared care of the child during the relevant care period.

*How much is the annual rate*

- (2) The annual rate of child support payable is \$1060.

Note: The annual rate of child support specified in subsection (2) is indexed under section 153A.

- (3) The Registrar must not assess the total annual rate of child support payable by a parent under subsection (1) (including any child support that is not actually payable because of subsection 40B(1)) for a day in a child support period as more than 3 times the rate specified in subsection (2).

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- (4) If an annual rate of child support is payable by a parent under subsection (1) (including any child support that is not actually payable because of subsection 40B(1)) for more than 3 children for a day in a child support period, then the annual rate of child support payable by the parent for each child for a day in the child support period is:

$$\frac{3 \times \text{Annual rate specified in subsection (2)}}{\text{Total number of children for whom child support is payable by the parent under subsection (1)}}$$

- (4A) For the purposes of subsection (4), if a parent is liable to pay child support for one or more children under an administrative assessment under the law of a reciprocating jurisdiction, then that child support is taken to be payable by the parent for those children under subsection (1).

*Paying the annual rate to more than one person*

- (5) If, (disregarding section 40B) the rate under subsection (2) or (4) would be payable for a child to:

- (a) a parent and a non-parent carer of the child; or
- (b) 2 non-parent carers of the child;

then, subject to section 40B, the annual rate of child support for the child worked out under this section is payable in accordance with section 40A.

Note: Under section 40B, a non-parent carer of a child is not entitled to be paid child support unless he or she applies under section 25A in relation to the child.

**65B Application for section 65A not to apply**

- (1) If the Registrar makes an assessment of an annual rate of child support payable by a parent for a day in a child support period under section 65A:
- (a) the parent may apply to the Registrar for the section not to apply; or

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- (b) the parent is taken to have applied to the Registrar for the section not to apply if, immediately before the end of the previous child support period, the section did not apply because of a determination under this section.
- (2) The parent making the application must provide evidence to the Registrar concerning the parent's income (within the meaning of subsection 66A(4)) to demonstrate that his or her current income is:
- (a) less than the pension PP (single) maximum basic amount; and
  - (b) that it would be unjust and inequitable to expect him or her to pay the amount assessed under this section.
- (3) An assessment issued by the Commissioner of Taxation for the last relevant year of income shall not be sufficient evidence of the income of the parent for the purposes of this section.
- (4) If the parent makes an application, the Registrar may determine in writing that the section not apply to the parent if the parent's current income (within the meaning of subsection 66A(4)) is less than the pension PP (single) maximum basic amount and it would be unjust and inequitable to expect him or her to pay the amount assessed under this section.
- Note: If the Registrar refuses to grant an application under this section, the Registrar must serve a notice on the applicant under section 66C.
- (5) The Registrar must specify the day in the child support period on which the section ceases to apply to the parent. The day may be any day from the first day of the child support period on which an annual rate of child support under section 65A became payable by the parent.

**66 Minimum annual rate of child support**

*Assessment of annual rate*

- (1) The Registrar must assess the total of the annual rates of child support payable by a parent for all the children in a child support



case for a day in a child support period as the minimum annual rate of child support for the child support period if:

- (a) the parent does not have at least regular care of at least one of the children in the child support case for the day; and
- (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.

Note: The Registrar must not make an assessment under this subsection in certain cases (see subsections (2) and (8)).

- (2) To avoid doubt, the Registrar must not make an assessment in respect of a parent whose annual rate of child support could be assessed under section 65A (low income parents not on income support) unless the Registrar has determined under section 65B that section 65A does not apply.

*When assessment applies*

- (4) An assessment in respect of a parent covered by paragraph (1)(b) applies to each day in the period:
  - (a) beginning on the first day in the child support period on which the total payable by the parent in respect of 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; and
  - (b) ending:
    - (i) if the parent would be so assessed until the end of the child support period—at the end of the child support period; or
    - (ii) otherwise—28 days after the day on which the person would cease to be so assessed (even if that day is after the end of the child support period).

*How much is the minimum annual rate*

- (5) The **minimum annual rate of child support** is \$320.

**Part 5** Administrative assessment of child support

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Note: The minimum annual rate of child support specified in subsection (5) is indexed under section 153A.

(6) If:

- (a) the Registrar makes an assessment in respect of a parent under subsection (1); and
- (b) the parent is assessed (whether under subsection (1) or otherwise) for a day in a child support period in respect of the costs of children in more than 3 child support cases;

then the **annual rate of child support** payable by the parent for a day in the child support period for a particular child support case is:

$$\frac{3 \times \text{Minimum annual rate of child support}}{\text{Total number of parent's child support cases}}$$

- (6A) For the purposes of subsection (6), if a parent is liable to pay child support for one or more children for a day under an administrative assessment under the law of a reciprocating jurisdiction, then the parent is taken to be assessed for the day in respect of the costs of children in a child support case.

*Paying the minimum annual rate to more than one person for a single child support case*

- (7) If the rate worked out under subsection (5) or (6) is payable by a parent for a child support case to:
- (a) the parent of the children to whom the case relates and to one or more non-parent carers of those children; or
  - (b) 2 or more non-parent carers of those children;
- then:
- (c) if 2 or more persons have equal percentages of care of the children, and those percentages are the highest percentages—each of those persons is entitled to be paid an equal proportion of the annual rate of child support that is payable by the parent; and

- (d) otherwise—only the person who has the highest percentage of care of the children is entitled to be paid the annual rate of child support that is payable by the parent.

*Registrar not to make minimum rate assessment in certain cases*

- (8) The Registrar must not make an assessment under subsection (1) in relation to the child support payable by a parent:
  - (a) in accordance with a determination made under Part 6A (departure determinations); or
  - (b) in accordance with an order made under Division 4 of Part 7 (departure orders); or
  - (c) in accordance with provisions of a child support agreement that have effect, for the purposes of this Part, as if they were such an order made by consent.

*Definition of income support payment*

- (9) In this Act:

***income support payment:***

- (a) has the meaning given by subsection 23(1) of the *Social Security Act 1991*; and
- (b) includes a payment under the ABSTUDY scheme that includes an amount identified as living allowance, being an allowance that is paid at the maximum basic rate.

**66A Registrar may reduce an assessment to nil in certain cases**

- (1) If the Registrar has made an assessment under section 66 in respect of the annual rate of child support payable by a parent for all the children in a child support case for a day in a child support period, the Registrar may, on an application made by the parent that:
  - (a) is in accordance with the regulations; and
  - (b) either:
    - (i) nominates the whole (the ***nominated period***) of that child support period (if the first day of that child support period is the day referred to in paragraph 66(4)(a)); or

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- (ii) nominates a part (the *nominated period*) of that child support period, being a part that is at least 2 months and that begins on or after the day referred to in paragraph 66(4)(a);

reduce the annual rate of child support payable by the parent for those children for the nominated period to nil. This subsection is subject to subsection (3C).

Note: If the Registrar refuses to grant an application under this section, the Registrar must serve a notice on the applicant under section 66C.

- (2) The Registrar must not grant an application under subsection (1) unless the Registrar is satisfied that the amount worked out under subsection (3) is less than the amount worked out under subsection (3A).
- (2A) For the purposes of subsection (2), a parent is taken to have a child support case if the parent is liable to pay child support for one or more children under an administrative assessment under the law of a reciprocating jurisdiction.
- (3) The amount for the purposes of this subsection is:

$$\frac{\text{Parent's income for the nominated period}}{\text{Number of days in the nominated period}} \times 365$$

- (3A) The amount for the purposes of this subsection is:

$$\text{The total of the number of the parent's child support cases} \times \frac{\text{The minimum annual rate of child support for the child support period}}{\text{child support period}}$$

- (3B) For the purposes of subsection (3A), a parent is taken to have a child support case if the parent is liable to pay child support for one or more children under an administrative assessment under the law of a reciprocating jurisdiction.
- (3C) A reduction under subsection (1) has no effect in relation to a day to which the assessment under section 66 does not apply.

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Note: Subsection 66(4) deals with when an assessment under section 66 applies.

(4) In this section:

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

- (a) any money earned, derived or received by the parent for his or her own use or benefit, other than money earned, derived or received in a manner, or from a source, prescribed by the regulations for the purposes of this paragraph; or
- (b) a periodical payment by way of a gift or allowance, other than a payment of a kind prescribed by the regulations for the purposes of this paragraph.

### **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).

### **66C Notice to be given to unsuccessful applicant**

- (1) If the Registrar refuses to grant an application under section 65B or 66A, or amends an assessment in accordance with section 66B, the Registrar must serve written notice of the decision on the parent.
- (2) The notice must include, or be accompanied by, a statement to the effect:
  - (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

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- (ii) the assessment that was amended;  
(as the case requires); and
  - (b) that if the parent is aggrieved by the decision on the objection, he or she may, subject to that Act and the ART Act, apply to the ART for review of the decision.
- (3) A contravention of subsection (2) in relation to a decision does not affect the validity of the decision.

**Subdivision C—Making administrative assessments**

**66D How assessment is to be made**

In making an administrative assessment, the Registrar may act on the basis of the documents and information in his or her possession, and is not required to conduct any inquiries or investigations into the matter or to require (whether under this Act or otherwise) the giving of any information or the production of any document.

**67 Assessment to relate to all children for whom child support is payable by parent**

- (1) If child support is payable by a parent to a person for 2 or more children for a day in a child support period, any administrative assessment of the child support payable by the parent in relation to the day is to relate to all of the children and not to any of the children separately.
- (2) Subsection (1) applies whether or not the child support is payable because of:
  - (a) the acceptance by the Registrar of 2 or more separate applications for administrative assessment made otherwise than in the same form; or
  - (b) the acceptance by the Registrar of 2 or more child support agreements made otherwise than in the same document; or

- (c) the acceptance by the Registrar of an application for administrative assessment and of an application for acceptance of a child support agreement.
- (3) Subsection (1) does not require a single administrative assessment to be made of the child support payable by a parent to 2 or more other persons.

### **67A Offsetting of child support liabilities**

The annual rate of child support that would, apart from this section, be payable for a child or children in a child support case, for a day in a child support period, by one parent to the other parent is to be reduced (but not below nil) by the annual rate of child support that would, apart from this section, be payable to that parent in relation to that day by the other parent for the child or the children in the child support case.

### **68 Assessment to relate to whole or part of single child support period**

- (1) An administrative assessment of child support is to relate to all the days, or some of the days, of a single child support period.
- (2) Subsection (1) does not prevent a single notice of assessment under section 76 dealing with more than one administrative assessment.

### **69 Conversion of annual rates into daily rates of payment**

If the Registrar assesses the annual rate of child support payable by a parent for a child or children in a child support case, for a day in a child support period, the Registrar must, in accordance with the regulations, convert that annual rate into a daily rate and specify both the annual and daily rates in the notice of assessment given under section 76 in relation to the assessment.

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**70 Evidence relating to assessments**

- (1) The production of a notice of administrative assessment, or of a document signed by the Registrar that appears to be a copy of a notice of administrative assessment, is prima facie evidence:
  - (a) of the proper making of the administrative assessment; and
  - (b) except in proceedings to which subsection (1A) applies—that all the particulars of the notice of administrative assessment are correct.
- (1A) For the purposes of paragraph (1)(b), this subsection applies to any of the following proceedings relating to the administrative assessment:
  - (a) an ART review for the purposes of the Registration and Collection Act;
  - (b) an appeal under Part 7 of the ART Act in relation to such a review.
- (2) The production of a document signed by the Registrar that appears to be a copy of, or an extract from, any return or notice of administrative assessment is evidence of the matters in the document to the same extent as the original would be if it were produced.

**71 Assessment for part of a child support period**

In making an administrative assessment of the annual rate of child support payable for days in a period (the *part period*) that is not a whole child support period, the Registrar may apply this Act as if the beginning and end of the part period were the beginning and end respectively of a child support period.

**72 Validity of assessments**

Except in an ART review within the meaning of the Registration and Collection Act, or an appeal under Part 7 of the ART Act in relation to such a review, the validity of an assessment is not



affected because any of the provisions of this Act have not been complied with.

### **73 Assumptions as to future events**

In assessing the annual rate at which child support is payable for a day in the future, the Registrar may act on the assumption that the state of affairs known to the Registrar at the time the assessment is made will remain unchanged on that day.

#### **73A Registrar becoming aware of relevant dependent child**

(1) If:

- (a) an administrative assessment of child support is in force in relation to a parent; and
- (b) the Registrar is later notified, or otherwise becomes aware, of the fact that the parent has a relevant dependent child who was not taken into account for the purposes of making the assessment;

then, for the purposes of working out the parent's relevant dependent child amount under section 46, the parent is taken to have the relevant dependent child:

- (c) if the Registrar was notified, or otherwise became aware, of the fact that the child is a relevant dependent child of the parent within 28 days after the day on which the child became such a child—on and from the day the child became such a child; or
- (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
- (e) if neither paragraph (c) nor (d) applies—on and from the day the Registrar was notified, or otherwise became aware, of the fact that the child is a relevant dependent child of the parent.

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- (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.

**74 Registrar to give effect to happening of child support terminating events etc.**

- (1) If:
- (a) child support is payable for a child; and
  - (b) the Registrar is notified of, or otherwise becomes aware of:
    - (i) the happening of a child support terminating event in relation to the child, a liable parent, or a carer entitled to child support, or all 3; or
    - (ii) the happening of an event or change of circumstances that affects the annual rate at which the child support is payable under this Act;

the Registrar must immediately take such action as is necessary to take account of the happening of the event or change of circumstances (whether by amending any administrative assessment or otherwise).

- (2) Nothing in subsection (1) is to be taken to prevent the Registrar from taking such action as the Registrar considers appropriate to take account of the likely happening of an event or change of circumstances of which the Registrar is notified or otherwise becomes aware (whether by amending any administrative assessment or otherwise).

**74A Date of effect of change in care**

- If:
- (a) child support is payable for a child; and
  - (b) a determination of a responsible person's percentage of care for the child is revoked; and
  - (ba) another such determination (the *later determination*) is made in relation to the responsible person; and

(c) as a result, the Registrar amends an administrative assessment under section 75 to alter the annual rate at which the child support is payable for the child;  
the altered annual rate is to apply on and from the first day in a child support period to which the responsible person's percentage of care under the later determination applies.

Note: 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.

## **75 Amendment of assessments**

- (1) The Registrar may, at any time, amend any administrative assessment by making such alterations and additions as the Registrar considers necessary to give effect to this Act or the Registration and Collection Act.
- (2) However, if the amendment relates to a responsible person's percentage of care for a child, the Registrar must not amend an administrative assessment unless:
  - (a) the amendment relating to the responsible person's percentage of care for the child would cause the person's cost percentage for the child to change; 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.
- (3) Subsection (1) has effect despite the fact that:
  - (a) child support has been paid under the administrative assessment; or
  - (b) the child support period, or the part of the child support period, to which the administrative assessment relates has ended; or
  - (c) proceedings against or in relation to the administrative assessment are pending in the ART or in a court having jurisdiction under this Act, the Registration and Collection Act or the ART Act.

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- (4) Without limiting subsection (1), the Registrar may amend any administrative assessment for the purpose of:
- (a) correcting any error or mistake (whether or not made by the Registrar); or
  - (b) correcting the effect of any false or misleading statement made to the Registrar; or
  - (c) giving effect to the happening of a child support terminating event in relation to a child, the liable parent, the carer entitled to child support, or all 3; or
  - (d) giving effect to the happening of an event or change of circumstances that, under this Act or the Registration and Collection Act, affects the annual rate at which child support is or was payable; or
  - (e) giving effect to the acceptance of a child support agreement by the Registrar; or
  - (f) giving effect to a decision or order of the ART or of a court having jurisdiction under this Act, the Registration and Collection Act or the ART Act.
- (5) Where a provision of this Act or the Registration and Collection Act expressly authorises the Registrar to amend an administrative assessment, that provision does not by implication limit the power of the Registrar (whether under this section or otherwise) to amend the assessment.
- (6) Except as otherwise expressly provided in this Act or the Registration and Collection Act, every amended administrative assessment is to be taken to be an administrative assessment for all the purposes of this Act and the Registration and Collection Act.

**76 Notice of assessment to be given**

- (1) When the Registrar makes an administrative assessment, the Registrar must immediately give written notice of the assessment to the liable parent and the carer entitled to child support.

- (2) The notice must (in addition to specifying the matters that section 69 (daily rate conversion) requires to be specified in the notice) specify at least the following matters:
- (a) the adjusted taxable income, and child support income, of any parent (the *assessed parent*) who was assessed in respect of the costs of the children in the child support case to which the assessment relates;
  - (b) the names and dates of birth of those children;
  - (c) the number and age ranges of the relevant dependent children (if any) of an assessed parent;
  - (d) the number and age ranges of the other children in other child support cases (if any) of an assessed parent;
  - (e) an assessed parent's, and non-parent carer's, percentage of care for each child in the child support case to which the assessment relates;
  - (g) the costs of each child in the child support case to which the assessment relates;
  - (ga) if a child support agreement includes lump sum payment provisions, or if a court has made an order under section 123A, in respect of the children in the child support case to which the assessment relates:
    - (i) the amount of the lump sum payment specified in the agreement or order; and
    - (ii) the amount of any remaining lump sum payment (within the meaning of the Registration and Collection Act); and
    - (iii) any annual rate and daily rate of child support that remains payable under section 78 of this Act after taking into account any remaining lump sum payment that will be credited under section 69A of the Registration and Collection Act;
  - (h) such other matters as are prescribed.
- (2AA) For the purposes of paragraph (2)(d), a parent is taken to have a child support case if the parent is liable to pay child support for one or more children under an administrative assessment under the law of a reciprocating jurisdiction.

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- (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.
- (3) The notice must also include, or be accompanied by, statements of the following kinds:
- (a) a statement that specifically draws the attention of the liable parent and the carer entitled to child support to the right:
    - (i) to object, subject to the Registration and Collection Act, to particulars of the assessment; and
    - (ii) if aggrieved by the decision on an objection to particulars of the assessment (no matter who lodges the objection but subject to that Act and the ART Act), to apply to the ART for review of the decision;
  - (c) a statement that specifically draws the attention of the liable parent and the carer entitled to child support to the right to apply to the Registrar for a determination under Part 6A having the effect that the provisions of this Act relating to administrative assessment of child support will be departed from in relation to a child in the special circumstances of the case;
  - (ca) a statement that specifically draws the attention of the liable parent and the carer entitled to child support to the right to apply to a court having jurisdiction under this Act for an order under section 123A that the liable parent provide child support for the child in the form of a lump sum payment to be credited against the amount payable under the liability of the liable parent under any relevant administrative assessment;
  - (d) a statement that specifically draws the attention of the liable parent and the carer entitled to child support to the right, subject to the *Family Law Act 1975*, to apply to a court having jurisdiction under this Act for an order under

section 124 that a parent provide child support for the child otherwise than in the form of periodic amounts.

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## **Division 9—Liability to pay child support as assessed**

### **76A Simplified outline**

The following is a simplified outline of this Division:

- The amount of child support payable for a child or children for a day in a child support period is the daily rate specified in the notice of assessment.

### **77 Effect of assessment**

- (1) This section applies if the Registrar:
  - (a) assesses the annual rate of child support payable for a child or children in a child support case, for a day in a child support period, by a liable parent to a carer entitled to child support; and
  - (b) converts the annual rate into a daily rate and specifies both rates in a notice of assessment given under section 76 in relation to the assessment.
- (2) Child support is payable for the child or children by the liable parent to the carer entitled to child support for each day in the child support period.
- (3) The amount of child support payable for the child or children for the day by the liable parent to the carer entitled to child support is the amount of the daily rate specified in the notice of assessment.

### **78 When amounts of child support due and payable**

- (1) An amount of child support payable by a liable parent in relation to a day in any calendar month is due and payable on the later of the following days:
  - (a) the seventh day of the following calendar month;



- (b) the 30th day after the liable parent was given a notice of assessment under section 76 specifying the annual and daily rates of child support in relation to that day.

Note: Section 66 of the Registration and Collection Act deals with when child support debts become due and payable.

- (2) An amount payable under subsection (1), in relation to a day in a calendar month in a year of income, is taken to be paid at the time that the amount becomes due and payable, to the extent that a remaining lump sum payment will be credited, under section 69A of the Registration and Collection Act, at the end of the year of income against that amount.

## **79 Recovery of amounts of child support**

An amount of child support due and payable by a liable parent to a carer entitled to child support is a debt due and payable by the liable parent to the carer, and may be sued for and recovered in:

- (a) a court having jurisdiction for the recovery of debts up to the amount of the child support; or  
(b) a court having jurisdiction under this Act.

Note: Amounts covered by section 30 of the Registration and Collection Act are debts due to the Commonwealth.

## Part 6—Consent arrangements

### Division 1—Preliminary

#### 80A Simplified outline

The following is a simplified outline of this Part:

- Parents (and non-parent carers) of a child can, using a child support agreement, agree between themselves the child support that is to be payable for the child.
- There are 2 sorts of agreements. The first is a binding child support agreement. Each party to the agreement must have received legal advice before entering the agreement, and must also receive legal advice before terminating the agreement.
- The second sort of agreement is a limited child support agreement. An administrative assessment must be in place before a limited child support agreement can be accepted by the Registrar. The annual rate of child support payable under the agreement must be at least the annual rate of child support otherwise payable under this Act.
- Agreements may include provisions that state that child support is to be payable otherwise than in the form of periodic amounts. There are 2 main kinds of such provisions:
  - (a) non-periodic payment provisions, under which lump sum payments and other non-periodic payments (such as school fees) may be made; and
  - (b) lump sum payment provisions, under which lump sum payments may be made.

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- Payments made under non-periodic payment provisions reduce the annual rate of child support payable.
- 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).

**80B Cases in relation to which Part applies**

This Part applies where the parents of an eligible child, or a parent or the parents of an eligible child and a non-parent carer of the child, want to give effect to an agreement between themselves in relation to child support payable for the child.

## Division 1A—Binding and limited child support agreements

### Subdivision A—Binding child support agreements

#### 80C Making binding child support agreements

- (1) An agreement is a *binding child support agreement* if:
  - (a) the agreement is binding on the parties to the agreement in accordance with subsection (2); and
  - (b) the agreement complies with subsection 81(2).
- (2) For the purposes of subsection (1), an agreement is binding on the parties to the agreement if, and only if:
  - (a) the agreement is in writing; and
  - (b) the agreement is signed by the parties to the agreement; and
  - (c) the agreement contains, in relation to each party to the agreement, a statement to the effect that the party to whom the statement relates has been provided, before the agreement was signed by him or her, as certified in an annexure to the agreement, with independent legal advice from a legal practitioner as to the following matters:
    - (i) the effect of the agreement on the rights of that party;
    - (ii) the advantages and disadvantages, at the time that the advice was provided, to the party of making the agreement; and
  - (d) the annexure to the agreement contains a certificate signed by the person providing the independent legal advice stating that the advice was provided; and
  - (e) the agreement has not been terminated under section 80D; and
  - (f) after the agreement is signed, either the original agreement or a copy of the agreement is given to each party.

Note: For the manner in which the contents of a binding child support agreement may be proved, see section 48 of the *Evidence Act 1995*.

### **80CA No variation of binding child support agreements**

- (1) A binding child support agreement must not be varied.

Note: A binding child support agreement can be terminated and replaced with a new binding child support agreement.

- (2) However, subsection (1) does not prevent a binding child support agreement between parties from incorporating by reference the provisions of a previous child support agreement between the parties.

### **80D Terminating binding child support agreements**

- (1) A binding child support agreement (the *previous agreement*) may be terminated only by:
- (a) a provision being included in a new binding child support agreement made by the parties to the previous agreement to the effect that the previous agreement is terminated; or
  - (b) the parties to the previous agreement making a written agreement (a *termination agreement*):
    - (i) that is binding on the parties in accordance with subsection (2); and
    - (ii) to the effect that the agreement is terminated; or
  - (c) a court order setting aside the previous agreement under section 136; or
  - (d) the agreement being terminated by subsection (2A).

*When an agreement is binding on parties*

- (2) For the purposes of subparagraph (1)(b)(i), an agreement is binding on the parties if, and only if:
- (a) the agreement is in writing; and
  - (b) the agreement is signed by the parties to the agreement; and
  - (c) the agreement contains, in relation to each party to the agreement, a statement to the effect that the party to whom the statement relates has been provided, before the agreement was signed by him or her, as certified in an annexure to the

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agreement, with independent legal advice from a legal practitioner as to the following matters:

- (i) the effect of the agreement on the rights of that party;
- (ii) the advantages and disadvantages, at the time that the advice was provided, to the party of making the agreement; and
- (d) the annexure to the agreement contains a certificate signed by the person providing the independent legal advice stating that the advice was provided; and
- (e) the agreement has not been set aside by a court under section 136; and
- (f) after the agreement is signed, either the original agreement or a copy of the agreement is given to each party.

Note: For the manner in which the contents of a termination agreement may be proved, see section 48 of the *Evidence Act 1995*.

*Termination when former eligible carer continues to be entitled to child support*

- (2A) A binding child support agreement is terminated in relation to a child by force of this subsection if:
  - (a) a party (the **former carer**) to the agreement who is entitled to be paid or provided child support for the child (disregarding section 67A) under the agreement ceases to be an eligible carer of the child; and
  - (b) the period of 28 days after the former carer ceases to be an eligible carer of the child ends without the former carer again becoming an eligible carer of the child; and
  - (c) the agreement is not suspended under section 86 on the day after the period ends as a result of that cessation; and
  - (d) a child support terminating event does not occur under subsection 12(2AA); and
  - (e) the former carer continues to be entitled to be paid or provided child support for the child under the agreement despite ceasing to be an eligible carer.

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Note: The agreement may continue in relation to other children to whom the agreement relates if the person does not cease to be an eligible carer of those children (see section 87).

*When child support agreement is terminated*

- (3) A binding child support agreement is terminated:
- (a) if paragraph (1)(a) applies—on the day set out in the following paragraph:
    - (i) if the new binding child support agreement specifies a day on which it takes effect—that day;
    - (ii) otherwise—the day on which the new binding child support agreement is signed; and
  - (b) if paragraph (1)(b) applies—on the day set out in the following paragraph:
    - (i) if the termination agreement specifies a day on which it takes effect—that day;
    - (ii) otherwise—the day on which the termination agreement is signed; and
  - (c) if paragraph (1)(c) applies—on the day on which the court order takes effect; and
  - (d) if paragraph (1)(d) applies—on the day the former carer ceases to be an eligible carer of the child.

## **Subdivision B—Limited child support agreements**

### **80E Making limited child support agreements**

- (1) An agreement is a *limited child support agreement* if:
- (a) it is in writing; and
  - (b) it is signed by the parties to the agreement; and
  - (c) it complies with subsection 81(2); and
  - (d) either:
    - (i) it meets the conditions in subsection (2), (3) or (4), as the case requires, (assuming the agreement is accepted by the Registrar); or

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(ii) it has been accepted by the Registrar under section 98U.

Note: In addition to the requirements in this section, there must be an administrative assessment in force in relation to the child in respect of whom the agreement is made (see subsection 92(3)).

*Child support payable on day application for acceptance of agreement is made to Registrar*

(2) An agreement meets the condition in this subsection if:

- (a) child support is to be payable under the agreement, by one party to the agreement to the other party or parties, on the day on which the application is made to the Registrar for acceptance of the agreement; and
- (b) the annual rate of child support that is so payable under the agreement on that day is at least the annual rate of child support that would otherwise be payable under this Act on that day.

Note: If the child support payable under the agreement is not a periodic amount, the regulations can prescribe the method by which that amount is to be converted into an annual rate (see subsection (5)).

*Child support payable on day agreement commences*

(3) An agreement meets the condition in this subsection if:

- (a) child support is not to be payable under the agreement, by one party to the agreement to the other party or parties, on the day on which the application is made to the Registrar for acceptance of the agreement; but
- (b) the annual rate of child support that is payable under the agreement, by one party to the agreement to the other party or parties, on the day on which the agreement commences is at least the annual rate of child support that would otherwise be payable under this Act on that day.

*Child support payable for past period*

(4) An agreement meets the condition in this subsection if:



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- (a) child support is payable under the agreement, by one party to the agreement to the other party or parties, for a period before the day on which the application is made to the Registrar for acceptance of the agreement; and
- (b) the amount of child support that is so payable under the agreement for that period is at least the amount of child support that would otherwise be payable under this Act for that period.

*Regulations*

- (5) The regulations may, for the purposes of subsections (2), (3) and (4), provide a method of converting an amount of child support that is payable under an agreement otherwise than in the form of periodic amounts into an annual rate of child support.

**80F No variation of limited child support agreements**

- (1) A limited child support agreement must not be varied.  
Note: A limited child support agreement can be terminated and replaced with a new limited child support agreement.
- (2) However, subsection (1) does not prevent a limited child support agreement between parties from incorporating by reference the provisions of a previous child support agreement between the parties.

**80G Terminating limited child support agreements**

- (1) A limited child support agreement (the *previous agreement*) may be terminated only by:
  - (a) a provision being included in:
    - (i) a new limited child support agreement made by the parties to the previous agreement; or
    - (ii) a binding child support agreement made by the parties to the previous agreement;to the effect that the previous agreement is terminated; or

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- (b) the parties to the previous agreement making a written agreement that is signed by those parties to the effect that the previous agreement is terminated; or
- (c) a court order setting aside the previous agreement under section 136; or
- (d) if the notional assessment of the amount of child support that would have been payable by one party to the previous agreement to another party is varied by more than 15% from the previous notional assessment in circumstances not contemplated by the previous agreement—a party to the previous agreement giving the Registrar written notice of the termination of the agreement within 60 days of that party receiving notice of the variation; or
- (e) if the previous agreement was made 3 or more years earlier—a party to the previous agreement giving the Registrar written notice of the termination of the previous agreement; or
- (f) the agreement being terminated by subsection (1B).

*Residents of reciprocating jurisdictions*

- (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.

*Termination when former eligible carer continues to be entitled to child support*

- (1B) A limited child support agreement is terminated in relation to a child by force of this subsection if:
- (a) a party (the **former carer**) to the agreement who is entitled to be paid or provided child support for the child (disregarding section 67A) under the agreement ceases to be an eligible carer of the child; and
  - (b) the period of 28 days after the former carer ceases to be an eligible carer of the child ends without the former carer again becoming an eligible carer of the child; and
  - (c) the agreement is not suspended under section 86 on the day after the period ends as a result of that cessation; and

- (d) a child support terminating event does not occur under subsection 12(2AA); and
- (e) the former carer continues to be entitled to be paid or provided child support for the child under the agreement despite ceasing to be an eligible carer.

Note: The agreement may continue in relation to other children to whom the agreement relates if the person does not cease to be an eligible carer of those children (see section 87).

*When child support agreement is terminated*

- (2) A limited child support agreement is terminated:
  - (a) if paragraph (1)(a) applies—on the day set out in the following paragraph:
    - (i) if the new limited child support agreement, or binding child support agreement, specifies a day on which it takes effect—that day;
    - (ii) otherwise—the day on which the new limited child support agreement or binding child support agreement is signed; and
  - (b) if paragraph (1)(b) applies—on the day set out in the following paragraph:
    - (i) if the written agreement specifies a day on which it takes effect—that day;
    - (ii) otherwise—the day on which the written agreement is signed; and
  - (c) if paragraph (1)(c) applies—on the day on which the court order takes effect; and
  - (d) if paragraph (1)(d) or (e) applies—28 days after the notice is given; and
  - (e) if paragraph (1)(f) applies—on the day the former carer ceases to be an eligible carer of the child.

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*Notification of termination in certain cases*

- (3) If a limited child support agreement is terminated under paragraph (1)(d) or (e), the Registrar must notify in writing the other parties to the agreement of the termination.
- (4) The notice under subsection (3) must include, or be accompanied by, a statement that specifically draws the attention of the parties to the previous agreement to the right:
  - (a) to object, subject to the Registration and Collection Act, to the decision (the ***original decision***) to terminate the agreement; and
  - (b) if aggrieved by a later decision on an objection to the original decision (no matter who lodges the objection but subject to that Act and the ART Act), to apply to the ART for review of the later decision.

## **Division 2—Child support agreement requirements**

### **81 *Child support agreement* definition and general requirement**

- (1) An agreement is a *child support agreement* if:
- (a) the agreement is a binding child support agreement; or
  - (b) the agreement is a limited child support agreement.

Note: For the definitions of *binding child support agreement* and *limited child support agreement*, see sections 80C and 80E.

- (2) An agreement is a binding child support agreement or a limited child support agreement if it complies with the following provisions:
- (a) section 82 (children in relation to whom agreements may be made);
  - (b) section 83 (persons who may be parties to agreements);
  - (c) section 84 (provisions that may be included in agreements);
  - (d) section 85 (child support agreement must not provide for person who is not eligible carer to be paid child support).

Note: A parenting plan under the *Family Law Act 1975* may, subject to the requirements of this Division, be a child support agreement.

### **82 Children in relation to whom agreements may be made**

- (1) An agreement is a child support agreement only if it is made in relation to a child in relation to whom an application for administrative assessment is, under section 24, entitled to be made on the day the agreement is entered into.
- (2) If the agreement is also made in relation to another child in relation to whom subsection (1) does not apply, the other child is to be disregarded for the purposes of this Act.
- (3) Subsection (2) does not affect the operation of the agreement in relation to the other child for any other purpose.

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**83 Persons who may be parties to agreements**

- (1) An agreement is a child support agreement only if it is made between:
  - (a) 2 parents of a child who, under section 25, would be able to properly make an application for administrative assessment of child support for the child in relation to whom the agreement is made on the day on which the agreement is entered into; or
  - (b) one or both parents of a child, and a non-parent carer of the child, who, under sections 25 and 25A, would be able to properly make an application for administrative assessment of child support for the child in relation to whom the agreement is made on the day on which the agreement is entered into.
- (2) If there is a party to the agreement in relation to whom subsection (1) does not apply, that party is to be disregarded for the purposes of this Act.
- (3) Subsection (2) does not affect the operation of the agreement in relation to that party for any other purpose.

**84 Provisions that may be included in agreements**

*Provisions that may be included*

- (1) An agreement is a child support agreement only if it includes one or more of the following kinds of provisions:
  - (a) provisions under which a party is to pay child support for a child to another party in the form of periodic amounts paid to the other party;
  - (b) provisions under which the rate at which a party is already liable to pay child support for a child to another party in the form of periodic amounts paid to the other party is varied;
  - (c) provisions agreeing between parties any other matter that may be included in an order made by a court under Division 4 of Part 7 (departure orders);

- (d) provisions (the *non-periodic payment provisions*) that state:
    - (i) that a party (the *liable party*) is to provide child support for a child to another party otherwise than in the form of periodic amounts; and
    - (ii) that the annual rate of child support payable for the child by the liable party under any relevant administrative assessment is to be reduced, in the manner specified under subsection (6), by the amount of child support to be provided by the liable party;
  - (e) provisions (the *lump sum payment provisions*) that meet the requirements of subsection (7) and that state:
    - (i) that a party (the *liable party*) is to provide child support for a child to another party in the form of a lump sum payment (including by way of transfer or settlement of property); and
    - (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;
  - (f) provisions under which a party is to provide child support for a child to another party otherwise than in the form of periodic amounts and that are not non-periodic payment provisions or lump sum payment provisions;
  - (g) provisions under which the liability of a party to pay or provide child support for a child to another party is to end from a specified day.
- (2) The agreement may include more than one kind of provision in relation to different parts of a child support period and different child support periods.

*Other kinds of provisions not to have effect*

- (3) If the agreement also includes provisions of a kind not referred to in subsection (1), those provisions do not have effect for the purposes of this Act.
- (4) Subsection (3) does not affect the operation of provisions of the kind referred to in that subsection for any other purpose.

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*Agreement may also be parenting plan, maintenance agreement or financial agreement*

- (5) Without limiting subsection (4), nothing in this Part is to be taken to prevent the same document being both a child support agreement and:
- (a) a parenting plan; or
  - (b) a maintenance agreement or financial agreement under the *Family Law Act 1975*; or
  - (c) a Part VIIIAB financial agreement (within the meaning of that Act).

*Additional requirements of agreements with non-periodic payment provisions*

- (6) If an agreement includes provisions of the kind referred to in paragraph (1)(d), the statement referred to in subparagraph (1)(d)(ii) must specify either:
- (a) that the annual rate of child support payable under the administrative assessment is to be reduced by a specified amount that represents an annual value of the child support payable; or
  - (b) that the annual rate of child support payable under the administrative assessment is to be reduced by 100% or another specified percentage that is less than 100%.

Note: Non-periodic payment provisions are taken to have effect as if they were a statement made by a court under section 125 in an order made under section 124 (see subsection 95(3)).

*Additional requirements etc. of agreements with lump sum payment provisions*

- (7) If an agreement includes provisions of the kind referred to in paragraph (1)(e), the provisions meet the requirements of this subsection if:
- (a) the agreement is a binding child support agreement; and
  - (b) an administrative assessment, in relation to the child in respect of whom the agreement is made, is in force



immediately before the application for acceptance of the agreement is made; and

- (c) the amount of the lump sum payment:
- (i) is specified in the agreement; and
  - (ii) equals or exceeds the annual rate of child support payable for the child under the administrative assessment.

Note: If an agreement includes provisions of the kind referred to in paragraph (1)(c) (lump sum payment provisions), the lump sum payment is credited under section 69A of the Registration and Collection Act against the amount payable under the liable party's liability (rather than reducing the annual rate of child support payable under the administrative assessment).

- (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).

### **85 Child support agreement must not provide for person who is not eligible carer to be paid child support**

- (1) An agreement is not a child support agreement in relation to a child if (disregarding section 67A) the agreement provides that a party to the agreement is to pay or provide child support for the child to another party for a period during which the party is not an eligible carer of the child.
- (2) Subsection (1) does not affect the operation of the agreement for any other purpose.

## Division 2A—Other rules relating to child support agreements

### 86 Suspension of child support agreements when person is not eligible carer

- (1) A child support agreement is suspended in relation to a child by force of this section on a day if:
- (a) a party (the *former carer*) to the agreement who is entitled to be paid or provided child support for the child (disregarding section 67A) under the agreement is not an eligible carer of the child on that day; and
  - (b) the period (including that day) during which the former carer has not been an eligible carer of the child is:
    - (i) 28 days or less; or
    - (ii) if subsection (2) applies—26 weeks or less; and
  - (c) a child support terminating event does not occur under subsection 12(2AA); and
  - (d) the former carer would (apart from this section) continue to be entitled to be paid or provided child support for the child under the agreement in respect of the day despite ceasing to be an eligible carer.

Note: The agreement may continue without suspension in relation to other children to whom the agreement relates if the person does not cease to be an eligible carer of those children (see section 87).

- (2) The former carer may cease to be an eligible carer of the child for up to 26 weeks under subparagraph (1)(b)(ii) if:
- (a) the child support agreement provides that the agreement is to be suspended if a party to the agreement ceases to be an eligible carer of the child for a period of more than 28 days; or
  - (b) after the former carer ceases to be an eligible carer, each of the parties to the agreement notifies the Registrar, before the end of the 26 week period, that the parties to the agreement want the agreement suspended for more than 28 days; or

- (c) the Registrar is satisfied that there are special circumstances in relation to the change in the care of the child.

### **86A Apportioning amounts payable under child support agreements**

- (1) This section applies if:
- (a) an agreement is made in the same document in relation to 2 or more children; and
  - (b) the agreement does not explicitly provide, and it is not possible to work out, the amount payable under the agreement in relation to each of the children to whom the agreement relates.
- (2) The agreement is taken to provide that the total amount payable under the agreement in relation to each of the children to whom the agreement relates is worked out using the following formula:

$$\frac{\text{Total amount payable under the agreement}}{\text{The number of children to whom the agreement relates}}$$

- (3) To avoid doubt, if the agreement ceases to relate to a child, the amount worked out under subsection (2) continues to apply in relation to each of the remaining children to whom the agreement relates.

### **87 Agreement may be made in relation to 2 or more children etc.**

- (1) If an agreement is made in the same document in relation to 2 or more children, the document may be treated as if it contained separate agreements for each of the children.
- (2) If:
- (a) agreement is made in the same document in relation to a child or 2 or more children; and

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(b) child support is to be payable to or by 2 or more parties to the agreement for the child or any of the children;  
the document may be treated as if it contained separate agreements made in relation to the child or each of the children by each of the parties to or by whom child support is to be payable.

## **Division 3—Applications to Registrar for acceptance of child support agreements**

### **88 Application requirements generally**

An application for acceptance by the Registrar of an agreement made in relation to a child is properly made if:

- (a) either:
  - (i) the agreement is a child support agreement; or
  - (ii) the agreement is a termination agreement or a written agreement referred to in paragraph 80G(1)(b); and
- (b) the application complies with section 89.

### **89 Formal requirement for applications**

An application for acceptance by the Registrar of an agreement made in relation to a child must be made in the manner specified by the Registrar.

Note: Section 150A provides for the Registrar to specify the manner in which an application may be made.

### **90 Application for 2 or more separate agreements may be made in same form**

If application is made in the same form for acceptance of 2 or more agreements made in relation to a child or 2 or more children (whether or not the agreements have been made in the same document), the form may be treated as if it contained separate applications for each of the agreements.

## Division 4—Decisions on applications

### 91 How decision is to be made

In determining whether an agreement made in relation to a child is an agreement referred to in paragraph 88(a), the Registrar may act on the basis of the application made to the Registrar for acceptance of the agreement, the documents accompanying the application and the agreement itself, and is not required to conduct any inquiries or investigations into the matter.

### 92 Decision on application

- (1) Subject to this section, if the Registrar is satisfied that an application made to the Registrar for acceptance of an agreement made in relation to a child has been properly made, the Registrar must accept the agreement.
- (2) If the Registrar is not so satisfied, the Registrar may refuse to accept the agreement.
- (3) The Registrar must refuse to accept a limited child support agreement if, immediately before the application for acceptance of the agreement is made, no administrative assessment is in force in relation to the child.
- (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 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
  - (d) the overseas authority does not approve the acceptance of the agreement.

**93 Liability to pay child support arises on acceptance of application where child support not already payable etc.**

- (1) If:
- (a) the Registrar accepts a child support agreement made in relation to a child; and
  - (b) either:
    - (i) child support is not already payable for the child; or
    - (ii) child support is already payable by a person to another person for the child, but child support is to be paid or provided under agreement for the child otherwise than by the first-mentioned person to the other person;
- then, subject to subsection (1A):
- (c) the acceptance of the agreement by the Registrar has the same effect (as provided by this section) as the acceptance by the Registrar of an application for administrative assessment of child support for the child; and
  - (d) a person to whom child support is to be paid or provided under the agreement is a **carer entitled to child support** in relation to the child; and
  - (e) a person by whom child support is to be paid or provided under the agreement to the carer entitled to child support is a **liable parent** in relation to the child and the carer entitled to child support; and
  - (f) child support is payable for the child by the liable parent to the carer entitled to child support; and
  - (g) the child support is payable from the day on which the application was made to the Registrar for acceptance of the agreement; and
  - (h) the child support is payable until the earlier of the following days:
    - (i) the day immediately before the day on which a child support terminating event happens in relation to the child, the carer entitled to child support, the liable parent or all 3 of them;

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- (ii) the day immediately before the day on which the agreement is terminated under section 80D or 80G.
- (1A) Despite paragraphs (1)(g) and (h), child support is not payable for a child under the agreement for a day if the agreement is suspended in relation to the child under section 86 on that day.
- (2) The Registrar must assess under this Act the annual rate of the child support payable by the liable parent to the carer entitled to the child support for the child for the days in the child support period that starts on the day on which the application was made to the Registrar for acceptance of the agreement. The Registrar must do so as quickly as practicable.
- Note 1: The Registrar must assess, under section 34B, the annual rate of child support payable under an agreement if an annual rate of child support is already payable and the agreement is to affect that annual rate.
- Note 2: If the Registrar makes an assessment under this section, the Registrar must make a provisional notional assessment under section 146B.
- (3) In making any administrative assessment in relation to the child, the carer entitled to child support and the liable parent, the Registrar must act in accordance with section 95 (Effect of certain provisions of accepted child support agreements).

**94 Registrar to take action to give effect to accepted child support agreement or termination agreement etc.**

- (1) After the Registrar accepts a child support agreement made in relation to a child, the Registrar must immediately take such further action (if any) as is necessary to give effect to the agreement.
- Note: After accepting the agreement, section 34B or 93 or Part 5 might require the Registrar to assess an annual rate of child support payable.
- (2) In making any administrative assessment in relation to the child, the Registrar must act in accordance with section 95 (effect of certain provisions of accepted child support agreements).



- (3) After the Registrar accepts a termination agreement, or a written agreement referred to in paragraph 80G(1)(b), the Registrar must immediately take such further action (if any) as is necessary to give effect to the agreement.

### **95 Effect of certain provisions of accepted child support agreements**

- (1) This section applies in relation to a child support agreement that has been accepted by the Registrar.
- (2) If the agreement includes:
- (a) provisions under which a party is to pay child support for a child to another party in the form of periodic amounts paid to the other party; or
  - (b) provisions under which the rate at which a party is already liable to pay child support for a child to another party in the form of periodic amounts paid to the other party is varied; or
  - (c) provisions agreeing between parties any other matter that may be included in an order made by a court under Division 4 of Part 7 (Orders for departure from administrative assessment in special circumstances);
- the provisions have effect, for the purposes of Part 5 and section 142, as if they were an order made by consent by a court under Division 4 of Part 7.
- (3) If the agreement includes non-periodic payment provisions:
- (a) the provisions have effect, for the purposes of this Act, as if they were a statement made by a court under section 125 in an order made under section 124; and
  - (b) if the provisions or the agreement is registered in a court having jurisdiction under Part VII of the *Family Law Act 1975*—Division 13A of Part VII, and Parts XIII and XIII B, of that Act apply in relation to the provisions as if the provisions were an order made by the court under Part VII of that Act.

Note 1: The effect of paragraph (3)(a) is that the Registrar must make any subsequent administrative assessment on the basis of the annual rate

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of child support as reduced by the amount or percentage specified in the child support agreement (see section 127).

Note 2: This section does not deal with lump sum payment provisions (see paragraph 84(1)(e) of this Act and section 69A of the Registration and Collection Act).

- (5) The provisions of the agreement have effect despite any inconsistency with a court order made before the agreement was entered into.
- (6) Where any difficulty arises in the application of this section in or in relation to a particular proceeding, the court exercising jurisdiction in the proceeding may, on the application of a party to the proceeding or of its own motion, give such directions, and make such orders, as it considers appropriate to resolve the difficulty.

## **Division 5—Notice of the decision**

### **96 Notice of decision to be given**

- (1) If the Registrar accepts or refuses to accept an agreement made in relation to a child, the Registrar must immediately notify each party to the agreement of the decision.
- (2) The notice must include, or be accompanied by, a statement that specifically draws the attention of the parties to the agreement to the right:
  - (a) to object, subject to the Registration and Collection Act, to the decision (the *original decision*); and
  - (b) if aggrieved by a later decision on an objection to the original decision (no matter who lodges the objection but subject to that Act and the ART Act), to apply to the ART for review of the later decision.
- (3) A contravention of subsection (2) in relation to a decision does not affect the validity of the decision.
- (4) If a child support agreement includes lump sum payment provisions, the notice must specify:
  - (a) the amount of the lump sum payment specified in the agreement; and
  - (b) any annual rate and daily rate of child support that remains payable after taking into account any remaining lump sum payment (within the meaning of the Registration and Collection Act) that will be credited under section 69A of that Act.

## **Part 6A—Departure from administrative assessment of child support (departure determinations)**

### **Division 1—Preliminary**

#### **98A Simplified outline**

The following is a simplified outline of this Part:

- The Registrar can make a determination under this Part to depart from the provisions of this Act relating to administrative assessment of child support for a child.
- A liable parent or a carer entitled to child support can apply for such a determination, or the Registrar can make a determination on his or her own initiative.
- The Registrar must not make a determination in respect of a day that is more than 18 months earlier without leave of a court under section 112.
- The grounds for deciding whether to make a determination are the same as a court uses in deciding whether to make an order under Division 4 of Part 7.
- If the Registrar is considering making a determination, the parties can make a child support agreement in relation to child support payable for the child instead of the Registrar making the determination.
- Under section 80 of the Registration and Collection Act, certain persons can object to a decision to make or refuse to make a determination under this Part.

## **Division 2—Departures initiated by a liable parent or carer**

### **98B Application for determination under Part**

- (1) If, at any time when an administrative assessment is in force in relation to a child:
  - (a) the liable parent concerned; or
  - (b) the carer entitled to child support concerned;is of the view that, because of special circumstances that exist, the provisions of this Act relating to administrative assessment of child support should be departed from in relation to the child, the liable parent or carer may, by written application, ask the Registrar to make a determination under this Part.

Note 1: For the determinations that the Registrar may make under this Part see section 98S.

Note 2: The Registrar may only make a determination under this Part in respect of a day that is more than 18 months earlier than the day on which the relevant application is made with a court's leave under section 112 (see subsection 98S(3B)).
- (2) The parties to the proceedings under this Division are the liable parent and the carer entitled to child support.

### **98C Matters as to which Registrar must be satisfied before making determination**

- (1) Subject to this Part, if:
  - (a) an application is made to the Registrar under section 98B; and
  - (b) the Registrar is satisfied:
    - (i) that one, or more than one, of the grounds for departure referred to in subsection (2) exists; and

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- (ii) that it would be:
  - (A) just and equitable as regards the child, the liable parent, and the carer entitled to child support; and
  - (B) otherwise proper;to make a particular determination under this Part; the Registrar may make the determination.
- (2) For the purposes of subparagraph (1)(b)(i):
  - (a) the grounds for departure from the provisions of this Act relating to administrative assessment of child support in relation to the child are the same as the grounds for departure set out in subsection 117(2); and
  - (b) subparagraph 117(2)(b)(ib) has effect subject to subsections 117(3A) to (3C).
- (3) Subsections 117(4) to (9) (inclusive) apply to the Registrar in the exercise of his or her powers under this Division as if:
  - (a) any reference in those subsections to the court were a reference to the Registrar; and
  - (b) any reference to an order were a reference to a determination.

### **98D Formal requirements for application**

An application made under section 98B must be in the manner specified by the Registrar.

Note: Section 150A provides for the Registrar to specify the manner in which an application must be made.

### **98E Registrar may refuse to make determination because issues too complex**

If the Registrar is satisfied, after considering the application, that the issues raised by the application are too complex to be dealt with under this Part, the Registrar may refuse to make the determination without taking any further action under this Part.

**98F Application disclosing no grounds etc. for making determination—how dealt with**

If the Registrar is satisfied, after considering the application, that:

- (a) there are no grounds for departing from the provisions of this Act relating to administrative assessment of child support in relation to the child concerned; or
- (b) that it would not be:
  - (i) just or equitable as regards the child or either party to the application; or
  - (ii) otherwise proper;to make the determination;

the Registrar may refuse to make the determination without taking any further action under this Part.

**98G Other party to be notified**

- (1) If section 98E or 98F or subsection 98J(2) does not apply, the Registrar must cause a copy of:
  - (a) the application; and
  - (b) any document accompanying it;to be served on the other party to the proceedings.
- (2) The Registrar must, at the same time, inform the other party to the proceedings in writing that he or she may make any representation (a *reply*) regarding the application that he or she considers relevant.
- (3) If the other party to the proceedings makes a reply, the Registrar must serve a copy of the reply and any accompanying documents on the applicant for the determination.

**98H Procedure for dealing with application**

- (1) In making a decision under this Division in relation to an application, the Registrar:
  - (a) may act on the basis of:
    - (i) the application and the documents accompanying it; and

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- (ii) if action has been taken under section 98G—the reply (if any) to the application and the documents (if any) accompanying it; and
  - (b) may, but is not required to, conduct any inquiry or investigation into the matter.
- (2) Except where the Registrar refuses to make a determination under section 98E or 98F or subsection 98J(2) in respect of an application, the Registrar must give an opportunity to the applicant and the other party to appear before the Registrar, and be heard by him or her, if they so wish.

Note: Sections 98E and 98F and subsection 98J(2) provide that the Registrar may refuse to make a determination in the circumstances set out in those provisions without taking any further action under this Part.
- (3) Nothing in subsection (2) empowers the Registrar to compel a party to the proceeding to appear before the Registrar in the presence of the other party.
- (4) Any hearing before the Registrar, and any inquiry or investigation carried out by the Registrar, is to be carried out as the Registrar thinks fit and the Registrar is not bound by any rules of evidence.
- (5) A party to the proceedings must not be represented by another person before the Registrar.

## 98J Subsequent applications

- (1) A person who has made an application for a determination under this Part in respect of an administrative assessment of child support is not, for that reason, precluded from subsequently making another application in respect of that assessment if, because of circumstances existing at the time when the subsequent application is made, there are grounds for departing from the administrative assessment.
- (2) If:
  - (a) a person has made an application for a determination under this Part; and



- (b) the Registrar has refused to make a determination on the application; and
- (c) the person subsequently makes an application for a determination under this Part; and
- (d) the Registrar is satisfied, after considering:
  - (i) the application last made and the documents (if any) accompanying it; and
  - (ii) the previous application and the documents (if any) accompanying it and any matter taken into account by the Registrar in refusing to make a determination in relation to that application;

that no new matter has been submitted in support of the claim that there are grounds for departing from the provisions of this Act relating to administrative assessment of child support in relation to the child;

the Registrar may refuse to make a determination, without taking any further action under this Part.

### **98JA Notice of refusal to be served on parties**

- (1) If the Registrar refuses to make a determination under this Division, the Registrar must serve notice in writing of the decision on each of the parties to the proceeding.
- (2) The notice must include, or be accompanied by, a statement to the effect:
  - (a) that the party may, subject to the Registration and Collection Act, object to the decision (the *original decision*); and
  - (b) that if the party is aggrieved by a later decision on an objection to the original decision (no matter who lodges the objection), the party may apply, subject to the Registration and Collection Act and the ART Act, to the ART for review of the later decision.
- (3) A contravention of subsection (2) in relation to a decision does not affect the validity of the decision.

**Part 6A** Departure from administrative assessment of child support (departure determinations)

**Division 3** Departures initiated by the Registrar

Section 98K

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## **Division 3—Departures initiated by the Registrar**

### **98K Registrar may initiate a determination under this Part**

- (1) If, at any time when an administrative assessment is in force in relation to a child, the Registrar is of the view that, because of special circumstances that exist, the provisions of this Act relating to administrative assessment of child support should be departed from in relation to the child, the Registrar may make a determination under this Part.

Note 1: For the determinations that the Registrar may make under this Part see section 98S.

Note 2: The Registrar may only make a determination under this Part in respect of a day that is more than 18 months earlier than the day on which the relevant parties are notified under section 98M with a court's leave under section 112 (see subsection 98S(3B)).

- (2) The parties to the proceedings under this Division are the liable parent and the carer entitled to child support.

### **98L Matters as to which Registrar must be satisfied before making determination**

- (1) Subject to this Part, the Registrar may make the determination if:
  - (a) the Registrar is satisfied that, in the special circumstances of the case, application in relation to a child of the provisions of this Act relating to administrative assessment of child support would result in an unjust and inequitable determination of the level of financial support to be provided by the liable parent for the child because of the income, earning capacity, property and financial resources of either parent; and
  - (b) that it would be:
    - (i) just and equitable as regards the child, the liable parent, and the carer entitled to child support; and
    - (ii) otherwise proper;to make a particular determination under this Part.

- (2) Subsections 117(4) to (9) (inclusive) apply to the Registrar in the exercise of his or her powers under this section as if:
  - (a) any reference in those subsections to the court were a reference to the Registrar; and
  - (b) any reference to an order were a reference to a determination.

### **98M Parties to be notified**

- (1) The Registrar must, in writing, notify the parties to the proceedings that the Registrar is considering the making of a determination under section 98S in relation to the child concerned.
- (2) The Registrar must also cause to be served on each of the parties to the proceedings a summary of the information that the Registrar used to form the view that the Registrar should make a determination under this Division.
- (3) At the same time, the Registrar must inform each party to the proceedings in writing that the party may make any representation (a *reply*) regarding the summary that the party considers relevant.

### **98N Replies**

- (1) Any reply made by a party to proceedings under this Division must:
  - (a) be in the manner specified by the Registrar; and
  - (b) be made to the Registrar.

Note: Section 150A provides for the Registrar to specify the manner in a reply may be made.

- (2) If a party to the proceedings makes a reply, the Registrar must serve a copy of the reply and any accompanying documents on the other party to the proceedings.

### **98P Parties may jointly elect that Registrar discontinue proceedings**

- (1) In respect of proceedings under this Division, the liable parent and the carer entitled to child support may jointly elect that the

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Registrar discontinue the proceedings if the carer is not in receipt of an income tested pension, benefit or allowance.

- (2) The election must be:
  - (a) in the manner specified by the Registrar; and
  - (b) given to the Registrar.
- (3) If the parties to the proceedings make an election as set out in subsection (1), the Registrar must:
  - (a) discontinue the proceedings; and
  - (b) notify the parties to the proceedings that the Registrar has discontinued them because of the election under subsection (1).

**98Q Procedure**

- (1) In making a decision under this Division, the Registrar:
  - (a) may act on the basis of:
    - (i) the information that the Registrar used to form the view that because of special circumstances that exist, the provisions of this Act relating to administrative assessment of child support should be departed from in relation to the child concerned; and
    - (ii) if action has been taken under section 98N—the replies (if any) and the documents (if any) accompanying them; and
  - (b) may, but is not required to, conduct any inquiry or investigation into the matter.
- (2) Except where the Registrar refuses to make a determination under section 98R in respect of proceedings, the Registrar must give an opportunity to parties to the proceedings to appear before the Registrar, and be heard by him or her, if they so wish.

Note: Section 98R provides that the Registrar may refuse to make a determination in the circumstances set out in that provision without taking any further action under this Part.

- (3) Nothing in subsection (2) empowers the Registrar to compel the parties to the proceedings to appear before the Registrar in the presence of the other party.
- (4) Any hearing before the Registrar, and any inquiry or investigation carried out by the Registrar, is to be carried out as the Registrar thinks fit and the Registrar is not bound by any rules of evidence.
- (5) A party must not be represented by another person before the Registrar.

### **98R Registrar may refuse to make determination because issues too complex**

If the Registrar is satisfied, after considering the information before him or her and the representations (if any), that the issues involved are too complex to be dealt with under this Part, the Registrar may decide not to make the determination without taking any further action under this Part.

### **98RA Notice of refusal to be served on parties**

- (1) If, after having notified parties under section 98M, the Registrar refuses to make a determination under this Division, the Registrar must serve notice in writing of the decision on each of the parties to the proceeding.
- (2) The notice must include, or be accompanied by, a statement to the effect:
  - (a) that the party may, subject to the Registration and Collection Act, object to the decision (the *original decision*); and
  - (b) that if the party is aggrieved by a later decision on an objection to the original decision (no matter who lodges the objection), the party may apply, subject to the Registration and Collection Act and the ART Act, to the ART for review of the later decision.
- (3) A contravention of subsection (2) in relation to a decision does not affect the validity of the decision.

**Part 6A** Departure from administrative assessment of child support (departure determinations)

**Division 4** Determinations that may be made under this Part

Section 98S

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## **Division 4—Determinations that may be made under this Part**

### **98S Determinations that may be made under Part**

- (1) The determinations the Registrar may make under this Part are as follows:
- (a) a determination varying the annual rate of child support payable by a parent;
  - (b) a determination varying a parent's or non-parent carer's cost percentage for a child;
  - (c) a determination varying a parent's child support income;
  - (d) a determination varying the parents' combined child support income;
  - (e) a determination that:
    - (i) the column in the Costs of the Children Table that covers a parent's child support income or combined child support income that is, or is determined to be, greater than 2.5 times the annualised MTAWWE figure for the relevant June quarter, is the column headed "2 to 2.5"; and
    - (ii) the column is to apply as if the second dollar amount in the heading to that column did not apply;
  - (f) a determination varying a parent's child support percentage;
  - (g) a determination varying a parent's adjusted taxable income;
  - (h) a determination varying a parent's relevant dependent child amount or multi-case allowance;
  - (i) a determination varying a parent's self-support amount;
  - (j) a determination varying the costs of the children.

Note: There are limitations on the Registrar making a determination that varies an annual rate of child support payable in respect of a child support case below the minimum annual rate (see section 98SA).

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- (2) In proceedings under Division 2, the determinations under subsection (1) that the Registrar may make are not limited by the terms of the application.
- (3) A determination under this Division may make different provision in relation to different child support periods and in relation to different parts of a child support period.
- (3B) The Registrar may only make a determination under this Part in respect of a day in a child support period, being a day that is more than 18 months earlier than:
  - (a) the day on which the application for the determination is made under section 98B; or
  - (b) the day on which the Registrar notifies the relevant parties under subsection 98M(1);if a court has granted leave under section 112 for the determination to be made.
- (3C) If a court has granted leave under section 112, the Registrar may only make a determination under this Part in respect of a day in a child support period if the day is within the period specified by the court, under subsection 112(6), in the order granting the leave.
- (4) The Registrar must give, in writing, the reasons for making the determination (including the reasons for which the Registrar is satisfied as required by paragraph 117(1)(b)).
- (5) A contravention of subsection (4) in relation to a determination does not affect the validity of the determination.

**98SA Variation not to be below minimum annual rate of child support**

The Registrar must not make a determination under this Part that varies, or that has the effect of varying, the annual rate of child support payable, for a day in a child support period, by a liable parent for all of the children in the child support case that relates to the child in respect of whom the determination is made to a rate below the minimum annual rate of child support for the child

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support period, unless the liable parent has at least regular care of at least one of the children in that child support case.



## **Division 5—Child support agreements**

### **98T Parties may enter into child support agreement**

The parties to proceedings under this Part may, at any time before a determination is made in relation to the proceedings, enter into an agreement, purporting to be a child support agreement, in relation to the child support payable for the child in relation to whom the determination may be made.

### **98U Decision on child support agreement**

- (1) Subject to subsection (2), if the Registrar is satisfied that an agreement entered into by the parties to proceedings is a child support agreement, the Registrar must accept the agreement.
- (1A) In working out whether an agreement is a limited child support agreement for the purposes of subsection (1), disregard:
  - (a) paragraph 80E(1)(d); and
  - (b) subsections 80E(2) to (5).
- (2) For an agreement (other than a binding child support agreement), the Registrar must not accept the agreement unless he or she is also satisfied that it would be just and equitable, as regards the child, the liable parent and the carer entitled to child support, to accept the agreement.
- (3) Subsections 117(4) to (9) (inclusive) apply to the Registrar in the exercise of his or her functions under subsection (2) as if:
  - (a) any reference in those subsections to the court were a reference to the Registrar; and
  - (b) any reference to the making of a particular order under Division 4 of Part 7 were a reference to the acceptance of an agreement.
- (4) If the Registrar accepts the agreement:
  - (a) whichever of sections 34B and 93 is appropriate applies; and

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- (aa) sections 95 and 96 apply; and
  - (b) the Registrar may not make a determination under this Part in relation to the proceedings.
- (5) If the Registrar is not satisfied as required by subsections (1) and (2), the Registrar must refuse to accept the agreement.
- (6) If the Registrar refuses to accept the agreement:
- (a) section 96 applies; and
  - (b) the Registrar must proceed to make a determination under this Part.

## **Division 6—Pending applications**

### **98V Pending application not to affect assessment**

Subject to section 111C of the Registration and Collection Act (Stay orders), the fact that proceedings are pending under this Part in relation to a person does not, in the meantime, interfere with, or affect, any administrative assessment made in relation to the person. Any such assessment may be registered under the Registration and Collection Act, and amounts of child support and other amounts recovered in relation to the assessment, as if no proceedings were pending.

## Part 7—Court review of certain decisions

### Division 1A—Preliminary

#### 98W Simplified outline

The following is a simplified outline of this Part:

- Jurisdiction under this Act is conferred on certain federal and State courts.
- Generally, a person may apply for an order under this Part without having first obtained internal review under Part VII of the Registration and Collection Act.
- 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.
- A court may grant leave for the making of a departure determination under Part 6A, or a departure order under Division 4 of this Part, in relation to a period more than 18 months but less than 7 years earlier.
- In special circumstances, a court may make an order equivalent to a departure determination.
- A court may order that child support be paid in a form other than periodic amounts paid to a carer (including in the form of a lump sum payment).
- A court may set aside a child support agreement or termination agreement in certain circumstances (such as fraud, undue influence or change of circumstance).

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- A court may make an order for the payment of child support if a child is in urgent need of financial assistance.

## Division 1—Jurisdiction of courts

### 98X Simplified outline of this Division

- Jurisdiction under this Act is conferred on the Federal Circuit and Family Court of Australia (Division 2) and certain State and Territory Courts.

### 99 Jurisdiction of courts under Act

- (1) Jurisdiction is conferred on the Federal Circuit and Family Court of Australia (Division 2) and, subject to subsection (7), the Supreme Court of the Northern Territory, and each Family Court of a State is invested with federal jurisdiction in relation to matters arising under this Act.
- (2) Subject to subsections (5) and (7), each court of summary jurisdiction of each State is invested with federal jurisdiction, and jurisdiction is conferred on each court of summary jurisdiction of each Territory, in relation to matters arising under this Act.
- (3) The Governor-General may, by Proclamation, fix a day as the day on and after which proceedings in relation to matters arising under this Act may not be instituted in, or transferred to, a court of summary jurisdiction in a specified State or Territory.
- (4) A Proclamation under subsection (3) may be expressed to apply only in relation to:
  - (a) proceedings of specified classes; or
  - (b) the institution of proceedings in, or the transfer of proceedings to, a court of summary jurisdiction in a specified part of a State or Territory.
- (5) A court of summary jurisdiction must not hear or determine proceedings under this Act otherwise than in accordance with any Proclamation in force under subsection (3).

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- (6) The Governor-General may, by Proclamation, declare that a Proclamation under subsection (3) is revoked on and from a specified day and, on and from the specified day, this Act (including subsection (3)) has effect as if the revoked Proclamation had not been made, but without prejudice to the effect of the revoked Proclamation before the specified day.
- (7) Jurisdiction in relation to a matter arising under this Act in relation to which a proceeding is instituted under this Act is not conferred on a court of a Territory unless at least one of the parties to the proceeding (other than the Registrar) is, on the day on which the proceeding is instituted in or transferred to that court, ordinarily resident in the Territory.
- (8) The jurisdiction conferred on or invested in a court by this section includes jurisdiction in relation to matters arising under this Act in relation to which proceedings are transferred to that court under another law of the Commonwealth.
- (9) The jurisdiction conferred on or invested in a court by this section is in addition to any jurisdiction conferred on or invested in the court apart from this section.

Note: For appeals in relation to this Act, see section 26 of the *Federal Circuit and Family Court of Australia Act 2021* and section 47A of the *Family Law Act 1975*.

## 100 Application of Family Law Act

- (1) The *Family Law Act 1975* (other than Division 4 of Part V of that Act), the standard Rules of Court, the Federal Circuit and Family Court of Australia (Division 1) Rules, the related Federal Circuit and Family Court of Australia (Division 2) Rules and any Rules made under section 123A of the *Family Law Act 1975* apply, subject to this Act and with such modifications as are prescribed by the applicable Rules of Court, to proceedings under this Act (other than proceedings under paragraph 79(a)) as if:
  - (a) the proceedings were proceedings under Part VII of that Act; and

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- (b) the proceedings were proceedings instituted under Part VII of that Act; and
  - (c) a court having or exercising jurisdiction in the proceedings were a court having or exercising jurisdiction under Part VII of that Act; and
  - (d) a decree made in the proceedings were a decree made under Part VII of that Act; and
  - (e) matters arising in the proceedings were matters arising under Part VII of that Act; and
  - (f) any other necessary changes were made.
- (2) Without limiting subsection (1), Division 13A of Part VII (Orders in proceedings relating to contraventions of child-related orders), Part XIII (Enforcement of decrees), and Part XIII B (Contempt of court), of the *Family Law Act 1975* apply to any decree made by a court under this Act as if the decree were a decree made by a court under Part VII of that Act.
- (3) Where any difficulty arises in the application of subsection (1) or (2) in or in relation to a particular proceeding, the court exercising jurisdiction in the proceeding may, on the application of a party to the proceeding or of its own motion, give such directions, and make such orders, as it considers appropriate to resolve the difficulty.

**101 Appeals from courts of summary jurisdiction**

- (1) A Family Court of a State has jurisdiction to hear and determine appeals from a decree of a court of summary jurisdiction of the State.

Note: See sections 47A and 47B of the *Family Law Act 1975*.

- (2) The Supreme Court of the Northern Territory has jurisdiction to hear and determine appeals from a decree of a court of summary jurisdiction of the Northern Territory.

Note: See sections 47A and 47B of the *Family Law Act 1975*.



## **102 Appeals to High Court**

- (1) An appeal must not be brought directly to the High Court from a decree of a court exercising original jurisdiction under this Act (other than the Federal Circuit and Family Court of Australia).

Note: In relation to the Federal Circuit and Family Court of Australia, see sections 55 and 155 of the *Federal Circuit and Family Court of Australia Act 2021*.

- (2) If, apart from this subsection, subsection (1) is to any extent inconsistent with section 73 of the Constitution, this Act has effect as if the words “, except by special leave of the High Court” were added at the end of subsection (1).

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

**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.

**106A Declaration that a person should be assessed in respect of the costs of the child**

- (1) This section applies if:
  - (a) the Registrar refuses to accept from an applicant an 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 a person who was to be assessed in respect of the costs of the child is a parent of the child.

*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

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- 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.
- (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) 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.

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- (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.

**107 Declaration that a person should not be assessed in respect of the costs of the child**

- (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.
- (2) 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.
- (3) Subject to section 145 (Registrar may intervene in proceedings), the parties to the proceeding are the person who was assessed in respect of the costs of the child and the applicant for administrative assessment of child support.

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- (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.
- (5) 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.
- (6) If the court grants the declaration, the court must, as soon as practicable, consider making an order under section 143.

**107A Implementation of declaration under section 107 if assessment relates to 2 or more children**

- (1) This section applies if:
  - (a) the Registrar accepts an application for administrative assessment for child support for a child; and
  - (b) a declaration is granted 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
  - (c) the administrative assessment of the child support payable for one or more days (the *affected days*) in a child support period relates to:
    - (i) that child; and
    - (ii) at least one other child in relation to whom a declaration under section 107 that the person is not the parent of the child has not been granted.

Note: As to whether an administrative assessment relates to one or more children, see section 67.

- (2) The Registrar must amend the administrative assessment on the basis that the assessment of child support payable for the affected days relates, and has always related, to the other child or children, as the case may be.
- (3) Subject to subsection (4), the total amount of child support (if any) paid by the person, and received by the carer entitled to receive it, under the administrative assessment for the affected days is to be

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applied against the total amount of child support payable for those days under the assessment as amended.

- (4) If the total amount of child support received by the carer for the affected days exceeds the total amount payable for those days under the assessment as amended, the excess is to be disregarded.

Note: The excess may be recovered under section 143.

- (5) This section does not limit section 108.

**108 Implementation of decisions**

When a decision of a court under this Division becomes final, the Registrar must immediately take such action as is necessary to give effect to the decision.

**109 Pending application not to affect assessment**

- (1) Subject to section 111C of the Registration and Collection Act (Stay orders), the fact that a proceeding is pending under this Division in relation to a person does not, in the meantime, interfere with, or affect, any administrative assessment made in relation to the person, and any such assessment may be registered under the Registration and Collection Act, and amounts of child support and other amounts recovered in relation to the assessment, as if no proceeding were pending.
- (2) Subsection (1) does not apply in relation to a person in relation to a child if:
- (a) the person has made an application under section 107 in relation to the child; and
  - (c) there is not a decision of a court determining that ground of the application that has become final.
- (3) Subsection (2) does not apply in or in relation to the Territories and only extends to a State at a particular time if this Act does not, at that time, extend to the State because of subsection 13(1) or (2).

### **Division 3—Application for amendment of administrative assessment that is more than 18 months old**

#### **110 Simplified outline**

The following is a simplified outline of this Division:

- Normally, the Registrar cannot make a departure determination under Part 6A, and a court cannot make a departure order under Division 4 of this Part, in respect of a day in a child support period that is more than 18 months earlier.
- Under this Division, a liable parent, a carer entitled to child support or the Registrar can apply to certain courts for leave for a determination or order to be made in respect of a day in a child support period that is more than 18 months earlier.
- A court must not grant leave for such a determination or order to be made in respect of a day in a child support period that is more than 7 years earlier.
- If a court grants leave, the court can decide whether the Registrar should make such a determination or the court should make such an order.

#### **111 Application for amendment of administrative assessment that is more than 18 months old**

##### *Parent or carer applications*

- (1) A liable parent, or a carer entitled to child support, (the *applicant*) may apply to a court having jurisdiction under this Act for leave for:
  - (a) the Registrar to make a determination under section 98S; or

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- (b) the court to make an order under section 118; in respect of a day in a child support period, being a day that is more than 18 months, and less than 7 years, earlier than the day on which the application under this section is made.
- (2) Subject to section 145 (Registrar may intervene in proceedings), the parties to the proceeding under subsection (1) are:
- (a) the applicant; and
  - (b) either:
    - (i) the liable parent; or
    - (ii) the carer entitled to child support.

*Registrar application*

- (3) The Registrar (the *applicant*) may apply to a court having jurisdiction under this Act for leave for the Registrar to make a determination under section 98S in respect of a day in a child support period, being a day that is more than 18 months, and less than 7 years, earlier than the day on which the application under this section is made.
- (4) The parties to the proceeding under subsection (3) are:
- (a) the applicant; and
  - (b) the liable parent; and
  - (c) the carer entitled to child support.

**112 Court may grant leave to amend administrative assessment that is more than 18 months old**

- (1) If an application is made to a court under section 111, the court may grant leave for:
- (a) the Registrar to make a determination under section 98S; or
  - (b) the court to make an order under section 118.
- (2) The court may grant leave for an order to be made under section 118 if the court is satisfied that it would be in the interest of the parties to the proceeding for the court to consider, at the same



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time as it hears the application under section 111, whether an order should be made under section 118. If the court does so, the applicant is taken to have made an application to the court under section 116 for such an order.

- (3) Otherwise, the court may grant leave for the Registrar to make a determination under section 98S.
- (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.

*Matters to be considered*

- (4) In considering whether to grant leave under subsection (1), the court must have regard to:
  - (a) any responsibility, and reason, for the delay in:
    - (i) making an application under section 98B or 116; or
    - (ii) making a determination under section 98S;as the case requires; and
  - (b) the hardship to the applicant (other than the Registrar) if leave is not granted; and
  - (c) the hardship to the other party or parties (other than the Registrar) if leave is granted.
- (5) The court may have regard to any other relevant matter.

*Orders granting leave to specify period*

- (6) An order granting leave under this section must specify the period in respect of which the Registrar may make a determination or the court may make an order.
- (7) The period specified under subsection (6):
  - (a) must not include a day in a child support period if the day is more than 7 years earlier than the day on which the application under section 111 was made; and

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(b) is not limited by the terms of that application.

*No requirement to make determination or order*

- (8) The granting of leave under subsection (1) does not imply that:
- (a) the Registrar is required to make a determination under section 98S; or
  - (b) the court is required to make an order under section 118.

**113 Implementation of decisions**

When a decision of a court under this Division is made, the Registrar must immediately take such action (if any) as is necessary to give effect to the decision.

**113A Pending application not to affect assessment**

Subject to section 111C of the Registration and Collection Act (stay orders), the fact that a proceeding is pending under this Division in relation to a person does not, in the meantime, interfere with, or affect, any administrative assessment made in relation to the person, and any such assessment may be registered under the Registration and Collection Act, and amounts of child support and other amounts recovered in relation to the assessment, as if no proceeding were pending.

## **Division 4—Orders for departure from administrative assessment in special circumstances (departure orders)**

### **113B Simplified outline**

The following is a simplified outline of this Division:

- Certain courts can make an order under this Division to depart from the provisions of this Act relating to administrative assessment of child support for a child.
- A person can apply for such an order in certain limited circumstances. (If a person cannot apply for an order under this Division, the person might instead be able to apply for a determination by the Registrar under Part 6A.)
- A court can also make such an order without an application in some circumstances (such as after setting aside a child support agreement).
- A court must not make an order in respect of a day in a child support period that is more than 18 months earlier without leave of the court under section 112.

### **114 Additional particular objects of Division**

Additional particular objects of this Division include ensuring:

- (a) that children have their proper needs met from reasonable and adequate shares in the income, earning capacity, property and financial resources of both of their parents; and
- (b) that parents share equitably in the support of their children.

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**116 Application for order under Division**

- (1) A liable parent or a carer entitled to child support may, in respect of an administrative assessment of child support for a child, apply to a court having jurisdiction under this Act for an order under this Division in relation to the child in the special circumstances of the case if:
- (b) both of the following apply:
    - (i) the liable parent or carer entitled to child support is a party to an application pending in a court having jurisdiction under this Act;
    - (ii) the court is satisfied that it would be in the interest of the liable parent and the carer entitled to child support for the court to consider whether an order should be made under this Division in relation to the child in the special circumstances of the case; or
  - (c) in the case of a liable parent—the administrative assessment of child support payable by the liable parent for the child is made under subsection 66(1).
- Note 1: For the orders that a court may make under this Division see section 118.
- Note 2: With a court’s leave, a court may make an order under this Division in respect of a day that is more than 18 months earlier than the day on which the relevant application was made (see subsection 118(2B)). A person is taken to have applied under this section if leave is granted.
- Note 3: A court may make an order under this Division if the court sets aside a child support agreement under section 136.
- (2) An application may be made by the carer entitled to child support, or the liable parent, in relation to the child.
- (3) Subject to section 145 (Registrar may intervene in proceedings), the parties to the application are the liable parent and the carer entitled to child support.

**117 Matters as to which court must be satisfied before making order**

*Court may make departure order*

- (1) Where:
- (a) application is made to a court having jurisdiction under this Act for an order under this Division in relation to a child in the special circumstances of the case; and
  - (b) the court is satisfied:
    - (i) that one or more of the grounds for departure mentioned in subsection (2) exists or exist; and
    - (ii) that it would be:
      - (A) just and equitable as regards the child, the carer entitled to child support and the liable parent; and
      - (B) otherwise proper;to make a particular order under this Division;the court may make the order.

*Grounds for departure order*

- (2) For the purposes of subparagraph (1)(b)(i), the grounds for departure are as follows:
- (a) that, in the special circumstances of the case, the capacity of either parent to provide financial support for the child is significantly reduced because of:
    - (i) the duty of the parent to maintain any other child or another person; or
    - (ii) special needs of any other child or another person that the parent has a duty to maintain; or
    - (iii) commitments of the parent necessary to enable the parent to support:
      - (A) himself or herself; or
      - (B) any other child or another person that the parent has a duty to maintain; or

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- (iv) high costs involved in enabling a parent to spend time with, or communicate with, any other child or another person that the parent has a duty to maintain;
- (aa) that, in the special circumstances of the case, the capacity of either parent to provide financial support for the child is significantly reduced because of the responsibility of the parent to maintain a resident child of the parent (see subsection (10));
- (b) that, in the special circumstances of the case, the costs of maintaining the child are significantly affected:
  - (i) because of high costs involved in enabling a parent to spend time with, or communicate with, the child; or
  - (ia) because of special needs of the child; or
  - (ib) because of high child care costs in relation to the child; or
  - (ii) because the child is being cared for, educated or trained in the manner that was expected by his or her parents;
- (c) that, in the special circumstances of the case, application in relation to the child of the provisions of this Act relating to administrative assessment of child support would result in an unjust and inequitable determination of the level of financial support to be provided by the liable parent for the child:
  - (i) because of the income, earning capacity, property and financial resources of the child; or
  - (ia) because of the income, property and financial resources of either parent; or
  - (ib) because of the earning capacity of either parent; or
  - (ii) because of any payments, and any transfer or settlement of property, made or to be made (whether under this Act, the *Family Law Act 1975* or otherwise) by the liable parent to the child, to the carer entitled to child support or to any other person for the benefit of the child.

*High costs involved in enabling parent to care for a child*

- (2B) A parent's costs involved in enabling the parent to care for a child can only be high for the purposes of subparagraph (2)(a)(iv) or (2)(b)(i) if the costs that have been or will be incurred, during a child support period, total more than 5% of the amount worked out by:
- (a) dividing the parent's adjusted taxable income for the period by 365; and
  - (b) multiplying the quotient by the number of days in the period.
- (2C) If a parent has at least regular care of a child, then the only costs that can be taken into account for the purposes of subsection (2B) are costs related to travel to enable the parent to spend time with, or communicate with, the child.

*High child care costs*

- (3A) The ground for departure mentioned in subparagraph (2)(b)(ib) is taken not to exist unless:
- (a) the costs are incurred by a parent or a non-parent carer; and
  - (b) the child is younger than 12 at the start of the child support period.
- (3B) Child care costs for a parent can only be high for the purposes of subparagraph (2)(b)(ib) if, during a child support period, they total more than 5% of the amount worked out by:
- (a) dividing the parent's adjusted taxable income for the period by 365; and
  - (b) multiplying the quotient by the number of days in the period.
- (3C) Child care costs for a non-parent carer can only be high for the purposes of subparagraph (2)(b)(ib) if, during a child support period, they total at least 25% of the costs of the child for that period.

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*Matters to consider for purposes of subparagraph (1)(b)(ii)*

- (4) In determining whether it would be just and equitable as regards the child, the carer entitled to child support and the liable parent to make a particular order under this Division, the court must have regard to:
- (a) the nature of the duty of a parent to maintain a child (as stated in section 3); and
  - (b) the proper needs of the child; and
  - (c) the income, earning capacity, property and financial resources of the child; and
  - (d) the income, property and financial resources of each parent who is a party to the proceeding; and
  - (da) the earning capacity of each parent who is a party to the proceeding; and
  - (e) the commitments of each parent who is a party to the proceeding that are necessary to enable the parent to support:
    - (i) himself or herself; or
    - (ii) any other child or another person that the person has a duty to maintain; and
  - (f) the direct and indirect costs incurred by the carer entitled to child support in providing care for the child; and
  - (g) any hardship that would be caused:
    - (i) to:
      - (A) the child; or
      - (B) the carer entitled to child support;by the making of, or the refusal to make, the order; and
    - (ii) to:
      - (A) the liable parent; or
      - (B) any other child or another person that the liable parent has a duty to support;by the making of, or the refusal to make, the order; and
    - (iii) to any resident child of the parent (see subsection (10)) by the making of, or the refusal to make, the order.



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- (5) In determining whether it would be otherwise proper to make a particular order under this Division, the court must have regard to:
- (a) the nature of the duty of a parent to maintain a child (as stated in section 3) and, in particular, the fact that it is the parents of a child themselves who have the primary duty to maintain the child; and
  - (b) the effect that the making of the order would have on:
    - (i) any entitlement of the child, or the carer entitled to child support, to an income tested pension, allowance or benefit; or
    - (ii) the rate of any income tested pension, allowance or benefit payable to the child or the carer entitled to child support.

*Proper needs of the child*

- (6) In having regard to the proper needs of the child, the court must have regard to:
- (a) the manner in which the child is being, and in which the parents expected the child to be, cared for, educated or trained; and
  - (b) any special needs of the child.

*Income, earning capacity, property and financial resources*

- (7) In having regard to the income, earning capacity, property and financial resources of the child, the court must:
- (a) have regard to the capacity of the child to earn or derive income, including any assets of, under the control of, or held for the benefit of, the child that do not produce, but are capable of producing, income; and
  - (b) disregard:
    - (i) the income, earning capacity, property and financial resources of any person who does not have a duty to maintain the child, or who has such a duty but is not a party to the proceeding, unless, in the special

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circumstances of the case, the court considers that it is appropriate to have regard to them; and

- (ii) any entitlement of the child or the carer entitled to child support to an income tested pension, allowance or benefit.

(7A) In having regard to the income, property and financial resources of a parent of the child, the court must:

- (a) have regard to the capacity of the parent to derive income, including any assets of, under the control of, or held for the benefit of, the parent that do not produce, but are capable of producing, income; and

(b) disregard:

- (i) the income, earning capacity, property and financial resources of any person who does not have a duty to maintain the child, or who has such a duty but is not a party to the proceeding, unless, in the special circumstances of the case, the court considers that it is appropriate to have regard to them; and
- (ii) any entitlement of the child or the carer entitled to child support to an income tested pension, allowance or benefit.

(7B) In having regard to the earning capacity of a parent of the child, the court may determine that the parent's earning capacity is greater than is reflected in his or her income for the purposes of this Act only if the court is satisfied that:

(a) one or more of the following applies:

- (i) the parent does not work despite ample opportunity to do so;
- (ii) the parent has reduced the number of hours per week of his or her employment or other work below the normal number of hours per week that constitutes full-time work for the occupation or industry in which the parent is employed or otherwise engaged;
- (iii) the parent has changed his or her occupation, industry or working pattern; and

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- (b) the parent's decision not to work, to reduce the number of hours, or to change his or her occupation, industry or working pattern, is not justified on the basis of:
  - (i) the parent's caring responsibilities; or
  - (ii) the parent's state of health; and
- (c) the parent has not demonstrated that it was not a major purpose of that decision to affect the administrative assessment of child support in relation to the child.

*Direct and indirect costs in providing care*

- (8) In having regard to the direct and indirect costs incurred by the carer entitled to child support in providing care for the child, the court must have regard to the income and earning capacity foregone by the carer entitled to child support in providing that care.

*Subsections not to limit consideration of other matters*

- (9) Subsections (4) to (8) (inclusive) do not limit other matters to which the court may have regard.

*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;

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- (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.

**118 Orders that may be made under Division**

- (1) The orders that a court may make under this Division are as follows:
  - (a) an order varying the annual rate of child support payable by a parent;
  - (b) an order varying a parent's or non-parent carer's cost percentage for a child;
  - (c) an order varying a parent's child support income;
  - (d) an order varying the parents' combined child support income;
  - (e) an order that:
    - (i) the column in the Costs of the Children Table that covers a parent's child support income or combined child support income that is, or is ordered to be, greater than 2.5 times the annualised MTAW figure for the relevant June quarter, is the column headed "2 to 2.5"; and
    - (ii) the column is to apply as if the second dollar amount in the heading to that column did not apply;
  - (f) an order varying a parent's child support percentage;
  - (g) an order varying a parent's adjusted taxable income;
  - (h) an order varying a parent's relevant dependent child amount or multi-case allowance;
  - (i) an order varying a parent's self-support amount;
  - (j) an order varying the costs of the children.
- (2) An order under this section may make different provision in relation to different child support periods and in relation to different parts of a child support period.

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- (2B) A court may only make an order under this Division in respect of a day in a child support period, being a day that is more than 18 months earlier than the day on which the application for the order is made under section 116, if the court has granted leave under section 112 for the order to be made.
- (2C) If the court has granted leave under section 112, the court may only make an order under this Division in respect of a day in a child support period if the day is within the period specified by the court, under subsection 112(6), in the order granting the leave.
- (3) If the court makes an order under this section, the court must:
- (a) give reasons for making the order (including reasons for its satisfaction as required by paragraph 117(1)(b)); and
  - (b) cause the reasons to be entered in the records of the court.
- (4) Subsection (3) does not apply in relation to an order if:
- (a) it is an order made by consent; and
  - (b) the carer entitled to child support concerned is not in receipt of an income tested pension, allowance or benefit.
- (5) A contravention of subsection (3) in relation to an order does not affect the validity of the order.

### 119 Implementation of orders

- (1) When a decision of a court making an order under this Division becomes final, the Registrar must immediately take such action as is necessary to give effect to the decision in relation to any administrative assessment that has been made in relation to the child, the carer entitled to child support and the liable parent concerned (whether by amending the assessment or otherwise).
- (2) In subsequently making an administrative assessment in relation to the child, the carer entitled to child support and the liable parent concerned while the order is in force, the Registrar must act on the basis of the provisions of this Act as modified by the order.

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**120 Pending proceeding not to affect assessment**

Subject to section 111C of the Registration and Collection Act (Stay orders), the fact that a proceeding is pending under this Division in relation to a person does not, in the meantime, interfere with, or affect, any administrative assessment made in relation to the person, and any such assessment may be registered under the Registration and Collection Act, and amounts of child support and other amounts recovered in relation to the assessment, as if no proceeding were pending.

## **Division 5—Orders for provision of child support otherwise than in form of periodic amounts paid to carer**

### **121 Additional particular objects of Division**

Additional particular objects of this Division include ensuring:

- (a) that children have their proper needs met from reasonable and adequate shares in the income, earning capacity, property and financial resources of both their parents; and
- (b) that parents share equitably in the support of their children.

### **122 Cases in relation to which Division applies**

This Division applies where a carer entitled to child support wants a liable parent to provide, or a liable parent wants to provide, child support for a child otherwise than in the form of periodic amounts paid to the carer entitled to child support.

### **123 Application for order under Division**

- (1) An application may be made to a court having jurisdiction under this Act for:
  - (a) an order that a liable parent provide child support otherwise than in the form of periodic amounts paid to the carer entitled to child support; or
  - (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.
- (2) An application under subsection (1):
  - (a) may only be made if an administrative assessment is in force in relation to the child, the carer entitled to child support and the liable parent; and

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- (b) may be made by the carer entitled to child support or the liable parent.
- (3) Before hearing the application, the court must hear and determine any pending application made to the court for an order under Division 3 (administrative assessments more than 18 months old) or Division 4 (departure orders) in relation to the child, the carer entitled to child support and the liable parent.
- (4) Subject to section 145 (Registrar may intervene in proceedings), the parties to the application are the carer entitled to child support and the liable parent.

**123A Orders for provision of child support in the form of lump sum payment to be credited against amounts payable under liability**

- (1) The court may make an order that a liable parent provide child support for a child to a carer entitled to 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 if:
  - (a) the carer entitled to child support or the liable parent makes an application to a court under paragraph 123(1)(b); and
  - (b) the court is satisfied that it would be:
    - (i) just and equitable as regards the child, the carer entitled to child support and the liable parent; and
    - (ii) otherwise proper;to make an order under this section; and
  - (c) the amount of the lump sum payment equals or exceeds the annual rate of child support payable for the child under the administrative assessment.

Note: If the court makes such an order, the lump sum payment is credited under section 69A of the Registration and Collection Act against the amount payable under the liable parent's liability (rather than reducing the annual rate of child support payable under the administrative assessment).



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- (2) A lump sum payment may include a payment by way of transfer or settlement of property.
- (3) An order under subsection (1):
  - (a) must specify the amount of the lump sum payment; and
  - (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.
- (4) In determining the application made under paragraph 123(1)(b), the court must have regard to:
  - (a) the administrative assessment; and
  - (b) any determination in force under Part 6A (departure determinations) in relation to the child, the carer entitled to child support and the liable parent; and
  - (c) any order in force under Division 4 of this Part (departure orders) in relation to the child, the carer entitled to child support and the liable parent; and
  - (d) whether the carer entitled to child support is in receipt of an income tested pension, allowance or benefit; and
  - (e) if the carer entitled to child support is not in receipt of such a pension, allowance or benefit—whether the circumstances of the carer are such that, taking into account the effect of the order proposed to be made by the court, the carer would be unable to support himself or herself without an income tested pension, allowance or benefit.
- (5) In determining whether it would be just and equitable as regards the child, the carer entitled to child support and the liable parent to make an order under subsection (1), the court must have regard to the matters mentioned in subsections 117(4), (6), (7), (7A) and (8).
- (6) In having regard to the earning capacity of a parent of the child under paragraph 117(4)(da), the court may determine that the parent's earning capacity is greater than is reflected in his or her income for the purposes of this Act only if the court is satisfied as mentioned in subsection 117(7B).

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- (7) In determining whether it would be otherwise proper to make an order under subsection (1), the court must have regard to the matters mentioned in subsection 117(5).
- (8) Subsections (4), (5), (6) and (7) do not limit the matters to which the court may have regard.

**124 Orders for provision of child support otherwise than in form of periodic amounts paid to carer entitled to child support**

- (1) Where:
  - (a) a carer entitled to child support or a liable parent makes an application under paragraph 123(1)(a); and
  - (b) the court is satisfied that it would be:
    - (i) just and equitable as regards the child, the carer entitled to child support and the liable parent; and
    - (ii) otherwise proper;to make an order that the liable parent provide child support for the child otherwise than in the form of periodic amounts paid to the carer entitled to child support;the court may make the order.
- (2) In determining the application, the court must have regard to:
  - (a) the administrative assessment in force in relation to the child, the carer entitled to child support and the liable parent; and
  - (aa) any determination in force under Part 6A (departure determinations) in relation to the child, the carer entitled to child support and the liable parent; and
  - (b) any order in force under Division 4 (departure orders) in relation to the child, the carer entitled to child support and the liable parent; and
  - (c) whether the carer entitled to child support is in receipt of an income tested pension, allowance or benefit or, if the carer entitled to child support is not in receipt of such a pension, allowance or benefit, whether the circumstances of the carer are such that, taking into account the effect of the order proposed to be made by the court, the carer would be unable

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to support himself or herself without an income tested pension, allowance or benefit.

- (3) In determining whether it would be just and equitable as regards the child, the carer entitled to child support and the liable parent to make an order under subsection (1), the court must have regard to the matters mentioned in subsections 117(4), (6), (7), (7A) and (8).
- (3A) In having regard to the earning capacity of a parent of the child under paragraph 117(4)(da), the court may determine that the parent's earning capacity is greater than is reflected in his or her income for the purposes of this Act only if the court is satisfied as mentioned in subsection 117(7B).
- (4) In determining whether it would be otherwise proper to make an order under subsection (1), the court must have regard to the matters mentioned in subsection 117(5).
- (5) Subsections (2), (3), (3A) and (4) do not limit the matters to which the court may have regard.

### **125 Court to state relationship between order and assessed child support**

- (1) If the court makes an order under section 124, the court must state in the order whether the annual rate of child support payable by the liable parent under any relevant administrative assessment is to be reduced, in the manner specified under subsection (3), by the child support ordered to be provided by the liable parent.

Note: If the court makes a statement under this section that the annual rate of child support is to be reduced, the Registrar must make a provisional notional assessment under section 146B.

- (2) The court may state that the annual rate of child support payable by the liable parent is not to be so reduced only if it is satisfied that, in the special circumstances of the case, it would be:
  - (a) just and equitable as regards the child, the carer entitled to child support and the liable parent; and
  - (b) otherwise proper;

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that the annual rate of child support not be reduced by the child support ordered to be provided.

- (3) If the court states in the order that the annual rate of child support is to be reduced by the child support ordered to be provided, the court must also state in the order either:
  - (a) that the annual rate of child support payable is to be reduced by a specified amount that represents an annual value of the child support to be provided; or
  - (b) that the annual rate of child support payable is to be reduced by 100% or another specified percentage that is less than 100%.
- (4) The court may, under subsections (1) and (3), make different provision in relation to different child support periods and in relation to different parts of a child support period.
- (5) In determining whether it would be just and equitable as regards the child, the carer entitled to child support and the liable parent to make a statement of the kind referred to in subsection (2), the court must have regard to the matters mentioned in subsections 117(4), (6), (7), (7A) and (8).
- (5A) In having regard to the earning capacity of a parent of the child under paragraph 117(4)(da), the court may determine that the parent's earning capacity is greater than is reflected in his or her income for the purposes of this Act only if the court is satisfied as mentioned in subsection 117(7B).
- (6) In determining whether it would be otherwise proper to make a statement of the kind referred to in subsection (2), the court must have regard to the matters mentioned in subsection 117(5).
- (7) Subsections (5), (5A) and (6) do not limit the matters to which the court may have regard.

### **126 Court to give reasons for order**

- (1) If the court makes an order under section 123A or 124, the court must:
  - (a) give reasons for:
    - (i) making the order; and
    - (ii) if the order is an order under section 123A—the matters specified in the order under subsection 123A(3); and
    - (iii) if the order is an order under section 124—the statement or statements included in the order under section 125; and
  - (b) cause the reasons to be entered in the records of the court.
- (2) Subsection (1) does not apply in relation to an order if:
  - (a) it is an order made by consent; and
  - (b) the carer entitled to child support concerned is not in receipt of an income tested pension, allowance or benefit.
- (3) A contravention of subsection (1) in relation to an order does not affect the validity of the order.

### **127 Effect of orders on administrative assessment of child support**

- (1) This section applies if the court makes an order under section 124 that includes a statement under section 125 that the annual rate of child support payable by a liable parent under an administrative assessment is to be reduced, in the manner specified under subsection 125(3), by the child support ordered to be provided by the liable parent.
- (2) When the decision of the court making the order becomes final, the Registrar must immediately take such action as is necessary to give effect to the order in relation to any relevant administrative assessment that has been made (whether by amending the assessment or otherwise).
- (3) In subsequently making a relevant administrative assessment, the Registrar must:

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- (a) work out what would, apart from this Division, be the annual rate of child support payable by the liable parent to the carer entitled to child support; and
- (b) reduce (but not below 0) that annual rate by the amount or percentage specified in the statement included in the order under subsection 125(3); and
- (c) make the assessment on the basis of that reduced annual rate.

**129 Modification of orders under Division**

- (1) If an order under section 123A or 124 is in force in relation to a child (whether or not all things ordered to be done by the order have been done):
  - (a) the court that made the order; or
  - (b) another court having jurisdiction under this Act in which the order has been registered;may under this section, by order:
  - (c) discharge the order; or
  - (d) suspend its operation wholly or in part and either until further order or until a fixed time or the happening of a future event; or
  - (e) if the operation of the order has been suspended under paragraph (d)—revive its operation wholly or in part; or
  - (f) subject to subsection (3), vary the order (including any matter specified under subsection 123A(3), or any statement made under section 125, included in the order) in any way.
- (2) The court must not make an order under subsection (1) in relation to the order under section 123A or 124 unless the court is satisfied, having regard in particular to any matter specified under subsection 123A(3), or any statement made under section 125, that it would be:
  - (a) just and equitable as regards the child, the carer entitled to child support and the liable parent concerned; and
  - (b) otherwise proper;to make the order.

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- (3) The court must not, by order under subsection (1), vary an order unless it is also satisfied:
- (a) that making the variation is justified because of a change in the circumstances of the child, the carer entitled to child support or a liable parent concerned since the order was made or last varied; or
  - (c) that making the variation is justified because of a change in the cost of living since the order was made or last varied; or
  - (d) in a case where the order was made by consent—that the order is not proper or adequate; or
  - (e) that material facts were withheld from the court that made the order or from a court that varied the order, or that material evidence previously given before such a court was false.
- (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.
- (5) In determining whether it would be just and equitable as regards the child, the carer entitled to child support and a liable parent to make an order under subsection (1), the court must have regard to the matters mentioned in subsections 117(4), (6), (7), (7A) and (8).
- (5A) In having regard to the earning capacity of a parent of the child under paragraph 117(4)(da), the court may determine that the parent's earning capacity is greater than is reflected in his or her income for the purposes of this Act only if the court is satisfied as mentioned in subsection 117(7B).
- (6) In determining whether it would be otherwise proper to make an order under subsection (1), the court must have regard to the matters mentioned in subsection 117(5).
- (7) Subsections (5), (5A) and (6) do not limit the matters to which the court may have regard.

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- (8) In satisfying itself for the purposes of paragraph (3)(d), the court must have regard to any payments, and any transfer or settlement of property, previously made by the liable parent to the child, to the carer entitled to child support or to any other person for the benefit of the child.
- (9) In satisfying itself for the purposes of paragraph (3)(c), the court must have regard to any changes that have occurred in a relevant Consumer Price Index published by the Australian Statistician.
- (10) The court must not, in considering the variation of an order, have regard to a change in the cost of living unless at least 12 months have elapsed since the order was made, or was last varied having regard to a change in the cost of living.
- (11) Subject to any order made under section 131, the discharge of an order does not affect the recovery of arrears due under the order, or under this Act, when the discharge takes effect.

**130 Court to give reasons for modifications**

- (1) If the court makes an order under section 129, the court must:
  - (a) give reasons:
    - (i) for making the order; and
    - (ii) if the court varies an order made under section 124 otherwise than by varying any statement included in the order under section 125 and does not order the variation of any such statement—for not ordering the variation of any such statement; and
  - (b) cause the reasons to be entered in the records of the court.
- (2) Subsection (1) does not apply in relation to an order made by consent.
- (3) A contravention of subsection (1) in relation to an order does not affect the validity of the order.



**131 Court may make orders consequential upon the discharge of orders etc.**

- (1) This section applies where an order under section 123A or 124 is discharged by a court under section 129 or ceases to be in force because of section 142 (Cessation of orders under Act).
- (2) A court having jurisdiction under this Act may make such orders (including orders for the transfer of property) as it considers just and equitable for the purpose of preserving or adjusting the rights of the child concerned or a person who is or was a carer entitled to child support, or a liable parent, in relation to the child.
- (3) An order under subsection (2) may be made in the proceeding in which the order is discharged or in another proceeding brought on the application of a person who is or was a carer entitled to child support, or a liable parent, in relation to the child concerned.
- (4) In the exercise of its powers under this section, a court must have regard to the interests of, and must make any order proper for the protection of, a bona fide purchaser or other person interested.
- (5) Without limiting any other powers conferred on a court by any other law, a court may vary or revoke an order made under this section if:
  - (a) the order was made because another order ceased to be in force under section 142; and
  - (b) the other order revives under subsections 142(1B) and (1C).

## **Division 6—Setting aside accepted child support agreements**

### **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.

### **136 Power of court to set aside child support agreements or termination agreements**

- (1) A party to either of the following agreements may apply to a court having jurisdiction under this Act for the court to set aside the agreement:
  - (a) a child support agreement that has been accepted by the Registrar under section 92 or 98U;
  - (b) a termination agreement, or a written agreement referred to in paragraph 80G(1)(b), that has been accepted by the Registrar under section 92.

- (2) If a party has applied under subsection (1), the court may set aside the agreement in accordance with the application if the court is satisfied:
- (a) that the party's agreement was obtained by fraud or a failure to disclose material information; or
  - (b) that another party to the agreement, or someone acting for another party:
    - (i) exerted undue influence or duress in obtaining that agreement; or
    - (ii) engaged in unconscionable or other conduct; to such an extent that it would be unjust not to set aside the agreement; or
  - (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.
- (2A) If a party has applied under subsection (1), the court may also set aside the agreement in accordance with the application if the court is satisfied that:
- (a) the agreement was made before 1 July 2008; and
  - (b) the agreement was made without at least one of the parties to the agreement receiving independent legal advice, before entering the agreement, from a legal practitioner as to the matters referred to in paragraph 80C(2)(c); and

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- (c) it would be unjust and inequitable if the court does not set the agreement aside.
- (3) Subject to section 145 (Registrar may intervene in proceedings), the parties to a proceeding under subsection (1) are the parties to the agreement.
- (4) If:
  - (a) the court sets aside a child support agreement under this section; and
  - (b) the court is satisfied as mentioned in paragraph 117(1)(b) (departure orders);the court may make an order under Division 4 of Part 7 without an application having been made under section 116.
- (5) If:
  - (a) the court sets aside a child support agreement under this section; and
  - (b) the court is not satisfied as mentioned in paragraph 117(1)(b) (departure orders); and
  - (c) the payee has received or will receive benefits pursuant to the agreement;the court may still make an order that departs from the administrative assessment where it is just and equitable to do so, having regard to the benefits that the payee has already received pursuant to the agreement.

**137 Court may make orders consequential on setting aside of agreement**

- (1) This section applies where an agreement made in relation to a child is set aside under section 136.
- (2) A court having jurisdiction under this Act may make such orders (including orders for the transfer of property) as it considers just and equitable for the purpose of preserving or adjusting the rights of the child or a party to the agreement.

- (3) An order under subsection (2) may be made in the proceeding in which the agreement is set aside or in another proceeding brought on the application of a party to the agreement.
- (4) In the exercise of its powers under this section, a court must have regard to the interests of, and must make any order proper for the protection of, a bona fide purchaser or other person interested.

### **138 Implementation of decisions**

When a decision of a court under this Division becomes final, the Registrar must immediately take such action as is necessary to give effect to the decision for the purposes of this Act (whether by amending any administrative assessment or otherwise).

## Division 7—Urgent maintenance orders

### 138A Simplified outline

The following is a simplified outline of this Division:

- A court may make an order for the payment of child support if:
  - (a) a child is in urgent need of financial assistance;  
and
  - (b) an application has been made for an administrative assessment in relation to the child.

### 139 Urgent maintenance orders

- (1) Where, at any time after an application has been made to the Registrar for administrative assessment of child support for a child (whether or not the Registrar has accepted or refused to accept the application), a court having jurisdiction under this Act is of the opinion that the child is in urgent need of financial assistance, the court may order the payment of such periodic or other amount as the court considers appropriate.
  - (2) Subject to subsection (2A) and section 152, an order under subsection (1) has effect for the period specified in the order.
- (2A) If:
- (a) the Registrar has made a decision refusing to accept the application for administrative assessment of child support;  
and
  - (b) the order under subsection (1) has not sooner ceased to have effect under subsection (2);
- the order ceases to have effect:

- (c) if the decision of the Registrar becomes final—at the time when that decision becomes final; or
  - (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
  - (e) in any other case—at the time when a decision that the applicant was not entitled to administrative assessment of child support becomes final, being a decision of the ART or a court under the ART Act or on appeal from such a decision of a court.
- (2B) For the purposes of subsection (2A), a decision of the Registrar refusing to accept an application for administrative assessment of child support becomes final if an application:
- (a) to a court under section 106A (declarations of entitlement to administrative assessment); or
  - (b) to the ART for an ART review within the meaning of the Registration and Collection Act;
- is not made within the period for doing so. The application becomes final at the end of the period.
- Note: For determining when decisions of the ART become final, see section 110W of the Registration and Collection Act.
- (3) A proceeding under this section may be instituted by the applicant for administrative assessment of child support against a person who was to be assessed in respect of the costs of the child.

## **Division 8—Provisions relating to court orders**

### **140A Simplified outline**

The following is a simplified outline of this Division:

- In exercising jurisdiction under this Act, a court has broad powers.
- An amount of child support paid when there is no liability to do so may be recovered in a court.

### **141 General powers of court**

- (1) In exercising its powers under this Act, a court may do all or any of the following:
  - (a) order payment of a lump sum, whether in one amount or by instalments;
  - (b) order payment of a weekly, monthly, yearly or other periodic amount;
  - (c) order that a specified transfer or settlement of property be made;
  - (d) order that payment of an amount ordered to be paid be wholly or partly secured as the court specifies;
  - (e) order that any necessary deed or instrument be executed, and that such documents of title be produced and such other things be done, as are necessary to enable an order to be carried out effectively or to provide security for the due performance of an order;
  - (f) order that payment be made to a specified person or public authority or into court;
  - (g) make a permanent order, an order pending the disposal of proceedings, an order for a fixed period, an order until a child attains a specified age or an order until further order;



- (h) make an order expressed to be retrospective to such day as the court considers appropriate;
  - (j) subject to section 129 (Modification of orders under Division 5), make an order:
    - (i) discharging an order; or
    - (ii) suspending the operation of an order wholly or in part and either until further order or until a fixed time or the happening of a future event; or
    - (iii) reviving wholly or in part the operation of an order that has been suspended; or
    - (iv) varying an order in any way;
  - (k) make an order imposing terms and conditions;
  - (m) make an order by consent;
  - (n) make any other order (whether or not of the same kind as those referred to in paragraphs (a) to (m) (inclusive)) that the court considers appropriate;
  - (p) make an order at any time.
- (2) The making of an order of a kind referred to in paragraph (1)(c), or of any other order under this Act, in relation to a child does not prevent a court from making a subsequent order (whether under this Act or otherwise) in relation to the child.
- (3) The applicable Rules of Court may make provision with respect to the making of orders under this Act (whether as to their form or otherwise) for the purpose of facilitating their enforcement and the collection of any child support payable under them.

## **142 Cessation of orders under Act**

- (1) Where an order made under this Act is in force in relation to a child and:
- (a) a child support terminating event happens in relation to the child; or
  - (b) if there is a carer entitled to child support and a liable parent in relation to the child—a child support terminating event

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happens in relation to the carer entitled to child support, the liable parent or all 3 of them; or

- (c) if there is not a carer entitled to child support and a liable parent in relation to the child, one of the following events happens:
- (i) the person on whose application the order was made:
    - (A) dies; or
    - (B) ceases to be an eligible carer of the child;
  - (ii) the person against whom the order was made:
    - (A) dies; or
    - (B) ceases to be a resident of Australia;

the order ceases to be in force.

- (1A) Sub-subparagraph (1)(c)(ii)(B) does not apply in relation to an international maintenance arrangement.
- (1B) Subsection (1) ceases to apply if:
- (a) a child support terminating event happens under subparagraph 12(4)(a)(i), in relation to a child and persons who are respectively a carer entitled to child support and a liable parent in relation to a child, because a person makes an election under section 151; and
  - (b) the liability to pay or provide child support is under a child support agreement whose provisions are covered by subsection 95(2) or (3); and
  - (c) the person who makes the election applies for an administrative assessment of child support under Part 4 before the liability to pay or provide child support under the agreement ends.
- (1C) To avoid doubt, the order is taken to revive at the start of the day the person makes the application for administrative assessment of child support.
- (2) Nothing in this section affects the recovery of arrears due under an order when the order ceases to be in force.

**143 Amounts paid where no liability to pay exists etc.**

- (1) An amount may be recovered from a person (the *payee*) in a court having jurisdiction under this Act if:
- (a) both of the following apply in relation to the amount:
    - (i) the amount was an amount of child support paid by another person (the *payer*) to the payee;
    - (ii) the payer is not liable, or subsequently becomes not liable, to pay the amount to the payee, except because the payer ceases to be a resident of Australia or a reciprocating jurisdiction; or
  - (b) both of the following apply in relation to the amount:
    - (i) the amount was paid by another person (the *payer*) under a registered maintenance liability to the payee;
    - (ii) the payee was not entitled to be paid the amount because of a decision that the registered maintenance liability should never have existed.
- (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.
- (3A) If:
- (a) a person (the *payer*) has paid an amount of child support to another person (the *payee*); and
  - (b) a court makes a finding that the payer is not a parent of the child (including by overturning on appeal a declaration made

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under section 106A or making a declaration under section 107); and

- (c) the court:
- (i) is considering whether to make an order under this section; or
  - (ii) if such an order is to be made, is determining the amount that is to be recovered and whether payment is to be made in the form of a lump sum payment or a periodic amount;

then the court must have regard to the matters set out in subsection (3B). This subsection does not limit subsection (3).

- (3B) For the purposes of subsection (3A), the court must have regard to the following matters:
- (a) whether the payee or the payer knew or suspected, or should reasonably have known or suspected, that the payer was not a parent of the child;
  - (b) whether the payee or the payer engaged in any conduct (by act or omission) that directly or indirectly resulted in the application for administrative assessment of child support for the child being accepted by the Registrar;
  - (ba) whether there was any delay by the payer in applying for a finding by a court that the payer is not a parent of the child;
  - (c) whether there was any delay by the payer in applying under section 107 for a declaration once he or she knew, or should reasonably have known, that he or she was not a parent of the child;
  - (d) whether there is any other child support that is, or may become, payable to the payee for the child by the person who is a parent of the child;
  - (e) the relationship between the payer and the child;
  - (f) the financial circumstances of the payee and the payer.
- (4) An amount paid to the Commonwealth under section 30 of the Registration and Collection Act is to be taken, for the purposes of this section, to have been paid to the payee.

## **Division 9—Miscellaneous**

### **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.

### **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).

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**144 Determining when decision of a court becomes final**

For the purpose of determining when a decision of a court becomes final:

- (a) if the decision is not a decision of a Full Court of the Federal Circuit and Family Court of Australia (Division 1) and an application is not made for leave to appeal against the decision within the period for making such an application—the decision becomes final at the end of that period; or
- (b) if the decision is a decision of a Full Court of the Federal Circuit and Family Court of Australia (Division 1) and an application is not made for special leave to appeal to the High Court within the period of 30 days after the making of the decision—the decision becomes final at the end of that period.

**145 Registrar may intervene in proceedings**

- (1) The Registrar may intervene in, and contest and argue any question arising in, a proceeding under this Act.
- (2) If the Registrar intervenes in a proceeding under this Act, the Registrar is to be taken to be a party to the proceeding with all the rights, duties and liabilities of a party.
- (3) This section does not limit Part IX of the *Family Law Act 1975*.

**146 Copies of orders to be forwarded to Registrar**

- (1) Where a court having jurisdiction under this Act makes an order under this Act, the registrar or other responsible officer of the court must, within 28 days after the day on which the order is made, send a certified or sealed copy of the order to the Child Support Registrar.
- (2) The Child Support Registrar may, by written notice served on the registrar or other responsible officer of a court, vary, in relation to the court, in such instances and to such extent as the Child Support Registrar considers appropriate, the requirement of subsection (1).

## **Part 7A—Notional assessments**

### **Division 1—Preliminary**

#### **146A Simplified outline**

The following is a simplified outline of this Part:

- If the Registrar accepts a certain kind of child support agreement, or the court makes a certain kind of order, the Registrar must make a provisional notional assessment of the annual rate of child support that would be payable for a day in a child support period if child support were payable under Part 5 instead of under the agreement or order.
- The notional assessment is used in the maintenance income test in working out a person's Part A rate of family tax benefit under the *A New Tax System (Family Assistance) Act 1999*.
- A parent may estimate their adjusted taxable income for the purposes of making a provisional notional assessment.

## **Division 2—Notional assessments**

### **146B Provisional notional assessments**

- (1) The Registrar must make a provisional notional assessment in accordance with this section if:
  - (a) the Registrar makes an assessment under section 34B or section 93; or
  - (b) a court makes a statement under section 125, in an order under section 124, that an annual rate of child support payable is to be reduced.
- (2) The Registrar must make a provisional notional assessment of the annual rate of child support that would be payable for a child for a particular day in a child support period, by the liable parent to the carer entitled to child support, if that annual rate were payable under Part 5 (taking into account any relevant determination under Part 6A, or any relevant order under Division 4 of Part 7, and taking into account section 146BA) for the child for that day instead of under the agreement or order.
- (3) The Registrar must serve notice in writing of the provisional notional assessment on the liable parent and the carer entitled to child support.
- (4) The notice must specify in respect of the provisional notional assessment the matters that are required under section 69 and subsection 76(2) (disregarding subsection 76(2A)) in respect of an administrative assessment.
- (5) The notice must include, or be accompanied by, a statement to the effect that:
  - (a) the liable parent or the carer entitled to child support can seek a variation of the provisional notional assessment in accordance with section 146C within 14 days of receiving the notice; and



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- (b) once the provisional notional assessment becomes a notional assessment under section 146E, the liable parent or the carer entitled to child support may, subject to the Registration and Collection Act, object to the particulars of the notional assessment; and
- (c) if aggrieved by a later decision on an objection to those particulars, the liable parent or the carer entitled to child support may, subject to that Act and the ART Act, apply to the ART for review of the later decision.

### **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 54B(2)(a), the reference to the day on which an application referred to in subparagraph 49(1)(a)(i) or 50(1)(a)(i) is made were a reference to the particular day in respect of which the provisional notional assessment is made; and
  - (d) subparagraph 65A(1)(b)(ii) were omitted and substituted with the following:
    - “(ii) if the parent made an election under subsection 146G(1) relating to the child—the amount estimated by the parent under that subsection.”.
- (2) Part 5 ceases to apply once a provisional notional assessment becomes a notional assessment.

### **146C Variation of provisional notional assessments**

- (1) A liable parent or carer entitled to child support (the *applicant*) may seek a variation of a provisional notional assessment within 14 days of receiving a notice under section 146B in respect of the

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provisional notional assessment by doing one or more of the following:

- (a) by notifying the Registrar of a change to the percentage of care that the liable parent or the carer entitled to child support has for the child for the particular day in the child support period in respect of which the provisional notional assessment is made;
- (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;
- (b) by making an application under section 146D for a determination under Part 6A (departure determinations);
- (c) if the applicant is a parent of the relevant child—by making an election under subsection 146G(1) (estimate of adjusted taxable income).

Note: A person who does not receive a notice that is served on the person is taken to have received the notice 14 days after the notice was served (see subsection 146E(2)).

- (2) The Registrar may vary the provisional notional assessment of the annual rate of child support that would be payable for the child for the particular day if:
  - (a) an applicant seeks a variation in accordance with subsection (1); and
  - (b) any one or more of the following applies:
    - (i) if paragraph (1)(a) applies—the Registrar determines a different percentage of care for the parent or the carer for the child for the particular day under Division 4 of Part 5;
    - (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;
    - (ii) if paragraph (1)(b) applies—the Registrar makes a determination in respect of the child under section 98S;

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- (iii) if paragraph (1)(c) applies—the Registrar does not refuse to accept the election under section 146H.
- (3) The Registrar may refuse to vary the provisional notional assessment if:
- (a) the liable parent or the carer entitled to child support seeks a variation to the provisional notional assessment in accordance with subsection (1); and
  - (b) any of the following applies:
    - (i) if paragraph (1)(a) applies—the Registrar does not determine a different percentage of care for the parent or carer for the child for the particular day under Division 4 of Part 5;
    - (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;
    - (ii) if paragraph (1)(b) applies—the Registrar refuses to make a determination in respect of the child under section 98S;
    - (iii) if paragraph (1)(c) applies—the Registrar refuses to accept the election under section 146H; and
  - (c) if the liable parent or carer entitled to child support seeks a variation by doing more than one of the things mentioned in subsection (1)—the Registrar has not already varied the provisional notional assessment under subsection (2).
- (4) The liable parent and the carer entitled to child support are not entitled:
- (a) to make an application to the ART for ART review within the meaning of the Registration and Collection Act; or
  - (b) to make an application to a court under section 116;
- in respect of the making of, or refusal to make, a determination under Part 6A in accordance with subsection (2) or (3).

Section 146D

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**146D Departure determinations in respect of provisional notional assessments**

- (1) A person may, by written application, ask the Registrar to make a determination under Part 6A (departure determinations) if:
  - (a) a provisional notional assessment has not yet become a notional assessment under section 146E; and
  - (b) the person is of the view that, because of special circumstances that exist, the provisions of this Act relating to administrative assessment of child support should be departed from for the purposes of making the provisional notional assessment; and
  - (c) the person has not previously applied under this section in relation to the provisional notional assessment.
- (2) If a person makes an application under subsection (1), Division 2 of Part 6A applies as if:
  - (a) references in that Division to an administrative assessment were references to the provisional notional assessment; and
  - (b) section 98JA did not apply.
- (3) If:
  - (a) an application (the *original application*) is made under section 98B in relation to an administrative assessment; and
  - (b) before the Registrar decides the application, the Registrar accepts an agreement under section 98U that is entered into by the parties to the proceedings concerned; and
  - (c) a provisional notional assessment is made because of section 34B applying as mentioned in paragraph 98U(4)(a);then the original application is taken to be an application made under subsection (1) of this section.

**146E Notional assessments**

- (1) A provisional notional assessment becomes a *notional assessment*:

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- (a) 14 days after the notice of the provisional notional assessment is received by all the parties under section 146B;  
or
  - (b) if a liable parent or a carer entitled to child support seeks a variation to the provisional notional assessment in accordance with section 146C—on the day on which the Registrar varies, or refuses to vary, the provisional notional assessment under that section.
- (2) For the purposes of this section and section 146C, if a person does not receive a notice served under section 146B before 14 days after the day on which the notice was served on the person by post at the person's last known address, the person is taken to have received the notice on the 14th day.
- (3) To avoid doubt, subsection (2) applies whether the person receives the notice after the time referred to in that subsection or does not receive the notice at all.
- (4) After a provisional notional assessment becomes a notional assessment, the Registrar must serve notice in writing of the notional assessment on the liable parent and the carer entitled to child support.
- (5) The notice must specify in respect of the notional assessment the matters that are required by section 69 and subsection 76(2) in respect of an administrative assessment.
- (6) The notice must include, or be accompanied by, a statement to the effect that:
- (a) the party may, subject to the Registration and Collection Act, object to the particulars of the notional assessment; and
  - (b) if aggrieved by a later decision on an objection to those particulars, may, subject to that Act and the ART Act, apply to the ART for review of the later decision.
- (7) A contravention of subsection (5) or (6) does not affect the validity of the notional assessment.

Section 146EA

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**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.

**146F Later provisional notional assessments**

The Registrar must make a new provisional notional assessment under section 146B:

- (a) if the relevant child support agreement or court order continues in force for more than 3 years—at the end of the 3 year period after the most recent notional assessment relating to the agreement or order was made; or
- (b) if the relevant child support agreement was a limited child support agreement—on the request of a party to the agreement; or
- (c) in any case—if the amount of child support that is payable under the relevant child support agreement or court order for a day in the child support period changes by more than 15% from the previous day.

## **Division 3—Estimating adjusted taxable income for notional assessments**

### **146G Estimating adjusted taxable income for purposes of notional assessments**

- (1) Before a provisional notional assessment relating to a child becomes a notional assessment under section 146E, a parent of the child may elect that, for the purposes of making the provisional notional assessment, the parent's adjusted taxable income for the 12 month period beginning on the particular day in the child support period in respect of which the provisional notional assessment is made is the amount estimated by the parent.
- (2) However, a parent may not make an election under this section in relation to a child if an order or determination referred to in paragraph (a) of the definition of *income amount order* is in force, or would be in force but for the existence of the relevant child support agreement, in relation to the parent and the particular day in the child support period in respect of which the provisional notional assessment is made.

*Election must be for amount less than adjusted taxable income for last relevant year of income*

- (3) The parent may make an election relating to a child only if the amount that he or she estimates under subsection (1) is not more than 85% of the total of the parent's adjusted taxable income for the last relevant year of income for the child support period.

*How election is made*

- (4) The parent makes the election by giving notice of it to the Registrar in the manner specified by the Registrar. The notice must specify the amount the parent estimates to be his or her adjusted taxable income.

Section 146H

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### 146H Registrar may refuse to accept election

- (1) The Registrar may refuse to accept the parent's election if the Registrar is satisfied that the amount the parent estimated under subsection 146G(1) is likely to be less than the actual amount that would be the parent's adjusted taxable income for that 12 month period.

Note: If the Registrar refuses to accept the election, he or she may refuse to vary the provisional notional assessment under subsection 146C(3).

- (2) In making the decision as to whether to refuse the election, the Registrar:
  - (a) may act on the basis of information that the Registrar has received or obtained as to the financial circumstances of the parent; and
  - (b) may, but is not required to, conduct an inquiry into the matter.
- (3) Except for the purposes of Parts VII, VIIA and VIII of the Registration and Collection Act (dealing with objections and appeals), if the Registrar refuses to accept an election, the election is taken never to have been made.

### 146J Effect of election

- (1) If a parent makes an election under subsection 146G(1) relating to a child, then, for the purposes of making the provisional notional assessment, the parent's adjusted taxable income is the amount the parent estimated.
- (2) Subsection (1) has effect subject to any order or determination referred to in paragraph (a) of the definition of **income amount order** that is made after the making of the election that applies in relation to the parent and the particular day in the child support period in respect of which the provisional notional assessment is made.
- (3) The Registrar must take such action as is necessary to give effect to subsection (1) in relation to the provisional notional assessment



that has been made in relation to the parent and the child (whether by varying the provisional notional assessment or otherwise).

### **146K Revocation of election**

- (1) Before a provisional notional assessment becomes a notional assessment under section 146E, a parent who has made an election under subsection 146G(1) in relation to a child may, by notice given to the Registrar, revoke the election.
- (2) A notice given to the Registrar must be given in the manner specified by the Registrar.

Note: Section 150A provides for the Registrar to specify the manner in which a notice may be given.

### **146L Effect of revocation**

- (1) If a parent who made an election under section 146G relating to a child revokes the election and substitutes a new election before the provisional notional assessment becomes a notional assessment under section 146E, then, for the purposes of making the provisional notional assessment, the parent's adjusted taxable income is the amount the parent elected in the new election.
- (2) Subsection (1) has effect subject to any order or determination referred to in paragraph (a) of the definition of **income amount order** that is made after the making of the election that applies in relation to the parent and the particular day in the child support period in respect of which the provisional notional assessment is made.
- (3) The Registrar must take such action as is necessary to give effect to subsection (1) in relation to the provisional notional assessment that has been made in relation to the parent and the child (whether by varying the provisional notional assessment or otherwise).
- (4) This section does not prevent:
  - (a) the Registrar making a determination under Part 6A; or
  - (b) a court making any order under Division 4 of Part 7; or

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**Division 3** Estimating adjusted taxable income for notional assessments

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- (c) the making, and acceptance by the Registrar, of a child support agreement that includes provisions that have effect, for the purposes of Part 5, as if they were such an order made by consent.

## **Part 8—Administration**

### **147 Secretary has general administration of Act**

The Secretary has the general administration of this Act.

### **148 Annual report**

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

### **149 Delegation**

- (1) The Registrar may, in writing, delegate all or any of the Registrar's powers or functions under this Act to an officer or employee of the Department or the Human Services Department.
- (1AA) The Registrar may, in writing, delegate all or any of his or her powers or functions under this Act to the Chief Executive Centrelink.
- (1A) Without limiting the generality of subsection (1), the Registrar may also, in writing, delegate all or any of the Registrar's powers or functions to a person engaged by the Registrar for the purposes of Part 6A.
- (2) A delegation may be made subject to a power of review and alteration by the Registrar, within a period specified in the delegation, of acts done under the delegation.

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- (3) A delegation continues in force even though there has been a change in the occupancy of, or there is a vacancy in, the office of Registrar, but, for the purposes of the application of subsection 33(3) of the *Acts Interpretation Act 1901* in relation to such a delegation, nothing in any law is to be taken to preclude the revocation or variation of the delegation by the same or a subsequent holder of the office.

**150 Secrecy**

- (1) In this section:

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

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

- (a) the Minister; or
- (aa) the Human Services 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*.

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

***protected document*** means:

- (a) a document that:
  - (i) contains information that concerns a person; and

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

***protected information*** means:

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

***relevant Minister*** means:

- (a) the Minister; or
- (aa) the Human Services Minister; or
- (b) the Prime Minister.

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

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

Penalty: Imprisonment for 1 year.

- (2A) Subsection (2) does not apply if the record is made, or the information is communicated:
  - (a) under or for the purposes of this Act; or

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- (b) in the performance of duties, as a person to whom this section applies, under or in relation to this Act; or
  - (c) for the purpose for which the information was communicated under this section.
- (2B) Subsection (2) does not apply to the making of a record of information with the express or implied authorisation of the person to whom the information relates.
- (3) Subsection (2) does not prevent the Registrar or a person authorised by the Registrar from communicating any protected information:
  - (a) to the Secretary, or an officer or employee of the Department, for the purpose of the administration of this Act; or
  - (b) to the Secretary of the Department or the Veterans' Affairs Department, or an officer or employee of either Department, for the purpose of the administration of any law of the Commonwealth relating to pensions, allowances or benefits; or
  - (ba) to:
    - (ia) the Human Services Secretary; or
    - (i) the Chief Executive Centrelink; or
    - (ii) a Departmental employee (within the meaning of the *Human Services (Centrelink) Act 1997*);for the purpose of the administration of this Act or of any other law of the Commonwealth relating to pensions, allowances or benefits; or
  - (bb) to:
    - (i) the Chief Executive Medicare; or
    - (ii) a Departmental employee (within the meaning of the *Human Services (Medicare) Act 1973*);for the purpose of the performance of functions, or the exercise of powers, in connection with a medicare program; or
  - (c) to a person performing, as a person to whom this section applies, duties under or in relation to this Act or the Registration and Collection Act, or under regulations made

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

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- (a) the information cannot reasonably be obtained from a source other than the Department or the Human Services 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 Registrar or an officer or employee of the Department or the Human Services Department; or
  - (e) to brief a relevant Minister about an instance of an anomalous or unusual operation of this Act.
- (4D) A communication of protected information is for the purpose of this subsection if:
- (a) the information is about a missing person; and
  - (b) the communication is necessary:
    - (i) to assist a court, coronial enquiry, Royal Commission, department or authority, of the Commonwealth, a State or a Territory, in relation to the whereabouts of the missing person; or
    - (ii) to locate a person (including the missing person); and
  - (c) there is no reasonable ground to believe that the missing person would not want the information communicated.
- (4E) A communication of protected information is for the purpose of this subsection if:
- (a) the information is about a deceased person; and
  - (b) the communication:
    - (i) is necessary to assist a court, coronial enquiry, Royal Commission, department or authority, of the Commonwealth, a State or a Territory, in relation to the death of the person; or
    - (ii) is necessary to help a person locate a relative or beneficiary of the deceased person; or
    - (iii) is in relation to the administration of the estate of the deceased person; and
  - (c) there is no reasonable ground to believe that the deceased person would not have wanted the information communicated.
- (4F) A communication of protected information is for the purpose of this subsection if the information is to establish:
- (a) the death of a person; or

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- (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 or carer 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.
- (5) A person to whom this section applies is not required:
- (a) to communicate protected information to a court; or
  - (b) to produce a protected document in court;
- except where it is necessary to do so for the purposes of this Act.
- (5A) Subsections (2) and (5) apply to information communicated under paragraph (3)(d) or (e) as if the purposes referred to in those paragraphs were purposes of this Act.
- (6) Nothing in an Act of which the Commissioner has the general administration is to be taken to prohibit the Commissioner, a Second Commissioner, a Deputy Commissioner, or a person authorised by the Commissioner, a Second Commissioner or a Deputy Commissioner, from communicating any information to a person performing, as a person to whom this section applies, duties under or in relation to this Act for the purpose of enabling the person to perform the duties.
- (7) Nothing in an Act of which the Commissioner has the general administration is to be taken to prohibit the Commissioner, a Second Commissioner, a Deputy Commissioner, or a person authorised by the Commissioner, a Second Commissioner or a Deputy Commissioner, from:
- (a) communicating to a court any information obtained under or for the purposes of such an Act; or
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- (b) producing in court a document obtained or made under or for the purposes of such an Act;  
where it is necessary to do so for the purpose of carrying into effect the provisions of this Act.
- (8) A person to whom this section applies must, if and when required by the Registrar to do so, make an oath or declaration, in a manner and form specified by the Registrar in writing, to maintain secrecy in accordance with this section.
- (9) This section has effect subject to subsection 67N(10) of the *Family Law Act 1975*.

**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*).

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(3) In this section:

*relevant information* means:

- (a) information about a person obtained from the records of:
  - (i) the Department; or
  - (ii) the Human Services Department within the meaning of this Act as in force at any time; or
  - (iii) the former Child Support Agency; or
- (b) information to the effect that there is no information about a person held in the records of the Department, the Human Services Department or the former Child Support Agency.

**150A Applications, notices, elections and replies to be in the manner specified by the Registrar**

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

Registrar on a data processing device, or by way of electronic transmission, it may contain the electronic signature of the person concerned.

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

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

- (5) In this section:

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

### **150B Registrar’s power to request tax file numbers**

- (1) This section applies to a person in Australia if:
- (a) the person has applied for an administrative assessment of child support; or
  - (b) another person has applied for the person to be assessed in respect of the costs of a child; or
  - (d) the person is a carer entitled to child support; or
  - (e) the person is a liable parent.
- (2) The Registrar may request, but not compel, the person:
- (a) to give the Registrar a written statement of the person’s tax file number; or
  - (b) if the person does not have a tax file number—to apply to the Commissioner for a tax file number and to give to the Registrar a written statement of the person’s tax file number after the Commissioner has issued it.

### **150D Registrar may require Commissioner to provide information**

- (1) The Registrar may require the Commissioner to provide the Registrar with information about people, including tax file numbers, being information that:

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- (a) is in the possession of the Commissioner; or
- (b) may come into the possession of the Commissioner after the requirement is made (including information that comes into existence after the requirement is made).

The requirement may be of a standing nature.

- (2) Information provided to the Registrar under a requirement made under subsection (1) may be used only for the following purposes:
  - (a) to ascertain whether a person may apply for administrative assessment of child support;
  - (b) to make or amend an administrative assessment of child support;
  - (c) to ascertain the happening of a child support terminating event;
  - (d) to identify a person for purposes related to a purpose mentioned in paragraph (a), (b) or (c).

**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 a carer entitled to child support 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.

**Part 9—Miscellaneous****150E Suspension of liability to pay child support where parents reconcile**

*Child support not payable if parents reconcile*

- (1) The Registrar must make a determination (a **suspension determination**) that child support is not payable for a child by a liable parent to the other parent of the child if:
  - (a) the Registrar is notified, or otherwise becomes aware, that the parents have become members of the same couple; and
  - (b) the Registrar is satisfied that the parents have become members of the same couple.
- (2) If the Registrar makes a suspension determination, child support for the child is not payable by the liable parent to the other parent:
  - (a) from the day the Registrar determines that the parents became members of the same couple; and
  - (b) until the Registrar makes a determination under subsection (3) in relation to the parents.

Note: Under section 12, there is a child support terminating event if the parents are members of the same couple for a period of 6 months or more.

*Payment of child support to continue if reconciliation not successful*

- (3) If:
  - (a) a child support terminating event has not happened in relation to a child and the child's parents under subsection 12(5); and
  - (b) the Registrar is satisfied that the parents have ceased being members of the same couple;

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then the Registrar must make a determination under this subsection that child support is again payable by the liable parent to the other parent.

- (4) If the Registrar makes a determination under subsection (3), child support is again payable by the liable parent to the other parent from the day that the Registrar is satisfied that the parents ceased to be members of the same couple.

*Suspension determination not to prevent payment of child support to non-parent carers*

- (5) To avoid doubt, child support is still payable by a liable parent for a child to a non-parent carer of the child despite a suspension determination being made in respect of the parents of the child.

*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).

**150F Suspension of liability to pay child support if notification delayed when persons have swapped eligible carer roles**

- (1) The Registrar must make a determination (a *suspension determination*) that child support is not payable for a child by a liable parent to another person if:
- (a) the Registrar or Secretary is notified, or otherwise becomes aware, that:
    - (i) all persons who were eligible carers of the child have ceased to be eligible carers of the child; and
    - (ii) a parent who was not an eligible carer of the child would have become an eligible carer of the child but for subparagraph 54F(3)(b)(i); and
  - (b) the Registrar or Secretary is notified, or otherwise becomes aware, of the matter in subparagraph (a)(ii) more than 28



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days after the relevant change of care day but before the end of 26 weeks after that day.

- (2) If the Registrar makes a suspension determination, child support for the child is not payable by the liable parent to the other person:
- (a) from that change of care day; and
  - (b) until the day before the Registrar or Secretary is notified, or otherwise becomes aware, of the matter in subparagraph (1)(a)(ii).

**151 Election to end administrative assessment**

- (1) A carer entitled to child support for a child may, by notice given to the Registrar, elect that the liability of a liable parent to pay or provide child support for the child to the carer entitled to child support is to end from a specified day.
- (1A) If child support is not payable to a person for a child under a child support agreement for a day under subsection 93(1A), any party to the agreement may, by notice given to the Registrar on that day, elect that the liability of a liable parent who is a party to the agreement to pay or provide child support for the child to the person is to end from a specified day.
- (2) A notice under subsection (1) or (1A) must be given in the manner specified by the Registrar.

Note: Section 150A provides for the Registrar to specify the manner in which a notice may be given.

**151B Application for assessment/agreement to continue beyond child's 18th birthday**

- (1) If a child turns 18 during a year in which the child is in full-time secondary education, a carer entitled to child support for the child may apply for an administrative assessment, or a child support agreement, in relation to the child to continue in force until the last day of the secondary school year in which the child turns 18.

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Note: For *full-time secondary education, last day* and *secondary school* see section 5.

- (1A) If a relevant dependent child of a parent turns 18 during a year in which the child is in full-time secondary education, the parent may apply for the relevant dependent child to be taken into account in any relevant administrative assessment until the last day of the secondary school year in which the child turns 18.
- (2) The application must be:
- (a) made to the Registrar in the manner specified by the Registrar; and
  - (b) in the case of an application under subsection (1) for a child support agreement to continue in force—signed by both the carer entitled to child support for the child and the liable parent in relation to the child.

Note: Section 150A provides for the Registrar to specify the manner in which an application may be made.

### **151C Application for assessment/agreement to continue— Registrar's decision**

- (1) The Registrar must either accept or refuse to accept an application under section 151B.
- (2) The Registrar must accept the application if, and only if, the Registrar is satisfied that:
- (a) the child has turned 17; and
  - (b) any of the following applies:
    - (i) if the application is made under subsection 151B(1)—an administrative assessment, or a child support agreement, in relation to the child either is in force, or is likely to be in force, on the day before the child's 18th birthday;
    - (ia) a suspension determination under section 150F provides that child support is not payable in respect of the day before the child's 18th birthday;

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- (ii) an administrative assessment that takes the child into account is in force, or is likely to be in force, on the day before the child's 18th birthday; and
- (c) the child is likely to be in full-time secondary education on the child's 18th birthday; and
- (d) the child's 18th birthday will occur on or before the last day of the secondary school year; and
- (e) either:
  - (i) the application is made before the child's 18th birthday; or
  - (ii) there are, in the Registrar's opinion, exceptional circumstances justifying the making of the application after the child's 18th birthday.

Note: For *full-time secondary education, last day* and *secondary school* see section 5.

*Refusal of application*

- (3) If the Registrar refuses to accept the application, the Registrar must immediately notify the applicant in writing.

*Acceptance of application*

- (4) If the Registrar accepts the application, the Registrar must immediately notify the applicant, and the liable parent concerned, in writing.
- (5) A notice to a person under this section must include, or be accompanied by, a statement to the effect:
  - (a) that the person may, subject to the Registration and Collection Act, object to the particulars of the assessment in relation to which the application under section 151B was made; and
  - (b) that if the person is aggrieved by the decision on an objection to the particulars of the assessment (no matter who lodges the objection), he or she may, subject to that Act and the ART Act, apply to the ART for review of the decision.

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- (6) A contravention of subsection (5) in relation to a decision does not affect the validity of the decision.
- (7) To avoid doubt, a reference in this section to an **administrative assessment** does not include a reference to an assessment made by the Registrar under subsection 93(2).

**151D Application under subsection 151B(1) for assessment/agreement to continue—consequences of acceptance**

*Child support terminating event*

- (1) If the Registrar accepts an application under subsection 151B(1) in relation to a child, then, in spite of section 12 (which deals with child support terminating events):
  - (a) a child support terminating event does not happen in relation to the child when the child turns 18; and
  - (b) a child support terminating event happens in relation to the child on whichever of the following days occurs first:
    - (i) the day on which the Registrar is satisfied the child ceased to be in full-time secondary education;
    - (ii) the last day of the secondary school year to which the application relates.

*Registrar to take necessary action*

- (2) If the Registrar accepts the application, the Registrar must immediately take such action as is necessary:
  - (a) if the application is to continue an administrative assessment in force—to take account of the change effected by subsection (1) to the meaning of **child support terminating event** in relation to the child (whether by amending the assessment or otherwise); and

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- (b) if the application is to continue a child support agreement in force—to take account of the change effected by subsection (1) to the meaning of ***child support terminating event*** in relation to the child (whether by accepting a subsequent child support agreement or otherwise).

*Child to be regarded as aged 17 for purposes of Part 5*

- (2A) If the Registrar accepts the application, the child is to be taken to be aged 17 for the purposes of applying Part 5 to the child throughout the period:
  - (a) beginning on the day on which the child turned 18; and
  - (b) ending on the day on which a child support terminating event (within the meaning of paragraph (1)(b)) happens in relation to the child.

*Date of effect of decision*

- (3) A decision of the Registrar to grant an application in relation to a child under subsection 151B(1) takes effect on the day before the child turns 18, whether the decision is made before, on or after that day.

**151E Applications under subsection 151B(1A) in respect of administrative assessments—consequences of acceptance***Registrar to take necessary action*

- (1) If the Registrar accepts an application under subsection 151B(1A), the Registrar must immediately take such action as is necessary to take account of the change to the meaning of relevant dependent child (whether by amending an administrative assessment or otherwise).

*Child to be regarded as aged 17 for purposes of Part 5*

- (2) If the Registrar accepts the application, the child is taken to be aged 17 for the purposes of applying Part 5 to the child throughout the period:

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- (a) beginning on the day on which the child turned 18; and
- (b) ending on the last day of the secondary school year in which the child turns 18.

*Date of effect of decision*

- (3) A decision of the Registrar to accept an application in relation to a child under subsection 151B(1A) takes effect on the day before the child turns 18, whether the decision is made before, on or after that day.

**152 Court order etc. to cease to have effect where child support becomes payable**

- (1) 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) immediately before that time, a court order or a court registered maintenance agreement, a financial agreement (within the meaning of the *Family Law Act 1975*) or a Part VIIIAB financial agreement (within the meaning of that Act), had effect under which child support or maintenance for the child was payable by the liable parent to the other person; and
  - (c) the court order, maintenance agreement, financial agreement or Part VIIIAB financial agreement did not give rise to an overseas maintenance liability;the court order, maintenance agreement, financial agreement or Part VIIIAB financial agreement ceases, at that time, to have effect.
- (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.

### **153 Evidentiary certificates by Registrar**

A certificate by the Registrar stating:

- (a) that a specified person was, on a specified day, a resident of Australia; or
- (b) that a specified person ceased, on a specified day, to be a resident of Australia; or
- (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
- (e) that a notice to the effect that the taxable income of a specified person under the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997* for a specified year of income was nil, or to the effect that no tax is payable (before the allowance of any rebate or credit) under either of those Acts on the taxable income of a specified person for a specified year of income, was served on the person under the *Income Tax Assessment Act 1996*; or
- (f) that a notice mentioned in paragraph (e) was dated as at a specified day;

is prima facie evidence of the matters stated in the certificate.

### **153A Indexation of amounts**

- (1) This section applies for the purposes of the following provisions:
  - (a) subsection 65A(2); and
  - (b) subsection 66(5).

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- (2) For the purposes of this Act, the amount specified in those provisions in relation to a child support period that begins in a particular calendar year is taken to be the amount worked out using the formula:

$$\text{Amount specified in the provision} \times \frac{\text{Highest September quarter index number}}{\text{Base September quarter index number}}$$

where:

**base September quarter index number** means the index number for the September quarter of 2005.

**highest September quarter index number** means the highest index number for a September quarter since the base September quarter index number (and including the base September 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.

- (3) Subject to subsection (4), if at any time (whether before or after the commencement of this subsection) the Australian Statistician publishes an index number for a quarter in substitution for an index number previously published by the Australian Statistician for that quarter, the publication of the later index number is to be disregarded for the purposes of subsection (2).
- (4) If at any time the Australian Statistician changes the index reference period for the Consumer Price Index, regard is to be had, for the purposes of applying subsection (2) after the change takes place, only to index numbers published in terms of the new index reference period.



**155 Publication of figures**

- (1) Before the end of each calendar year, the Registrar must publish in the *Gazette* for all child support periods starting in the following calendar year:
  - (a) the minimum annual rate of child support; and
  - (b) the annual rate of child support specified in subsection 65A(2) (low income parents not on income support).
- (2) Before the end of each calendar year, the Secretary must publish in the *Gazette* for all child support periods starting in the following calendar year:
  - (a) the annualised MTAWWE figure for the relevant June quarter; and
  - (b) the Costs of the Children Table, incorporating:
    - (i) the annualised MTAWWE figure for the relevant June quarter; and
    - (ii) any other amounts in items in the table that can be worked out using the annualised MTAWWE figure.
- (2A) Before the end of each financial year, the Secretary must publish in the *Gazette* the AWE amount (see section 58AA) for the quarter ending on 31 December of that year.
- (3) The instruments published under subsections (1), (2) and (2A) are not legislative instruments.

**156 Rounding of amounts**

- (1) If an amount that is calculated or worked out under or for the purposes of this Act is not, apart from this section, a number of whole dollars, the amount is to be rounded to the nearest whole dollar.
- (2) If the amount that is calculated or worked out is an amount consisting of a number of whole dollars and 50c, the amount is to be rounded up to the nearest whole dollar.

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- (3) This section does not apply in relation to the conversion of an annual rate of child support into a daily rate of child support.

**157 Appearance by Registrar in proceedings etc.**

- (1) In any action, prosecution or other proceeding under, or arising out of, this Act, the Registrar may appear personally or may be represented by:
- (a) a person enrolled as a barrister, solicitor, barrister and solicitor or legal practitioner of a federal court or of the Supreme Court of a State or Territory; or
  - (b) a person authorised by the Registrar, in writing, to appear.
- (2) The appearance of a person, and the statement of the person that the person appears with the authority of the Registrar, is prima facie evidence of that authority.

**158 Judicial notice of signature of Registrar etc.**

All courts and tribunals, and all judges and persons acting judicially or authorised by law or consent of parties to hear, receive and examine evidence, must take judicial notice of the signature of a person who holds or has held the office of Registrar.

**159 False or misleading statements**

- (1) A person who:
- (a) makes a statement to an officer that the person knows is false or misleading in a material particular; or
  - (b) omits from a statement made to an officer any matter or thing without which the statement is, to the knowledge of the person, misleading in a material particular;
- commits an offence punishable on conviction by imprisonment for a period not exceeding 6 months.
- (2) In a prosecution of a person for an offence against subsection (1), if, having regard to:

- (a) the person's abilities, experience, qualifications and other attributes; and
  - (b) all the circumstances surrounding the alleged offence; the person ought reasonably to have known that the statement to which the prosecution relates was false or misleading in a material particular, the person is to be taken to have known that the statement was false or misleading in a material particular.
- (3) A reference in subsection (1) to a statement made to an officer is a reference to a statement made to a person exercising powers under or in relation to this Act, whether the statement is made orally, in a document or in any other form, and includes, for example, a statement:
- (a) made in an application, form, notification, appeal or other document made, given or lodged, or purporting to be made, given or lodged, under this Act; or
  - (b) made in answer to a question asked of the person under this Act; or
  - (c) made in any information given, or purporting to be given, under this Act.

**159A Statements made recklessly etc.**

- (1) A person commits an offence if:
- (a) the person makes a statement to an officer; and
  - (b) the statement:
    - (i) is false or misleading in a material particular; or
    - (ii) omits any matter or thing without which the statement is false or misleading in a material particular; and
  - (c) the person is reckless as to whether the statement is a statement of that kind.

Penalty: 5 penalty units.

- (2) In a prosecution of a person for an offence against subsection (1), if, having regard to:

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- (a) the person's abilities, experience, qualifications and other attributes; and
  - (b) all the circumstances surrounding the alleged offence; the person has acted without taking reasonable care as to the accuracy and completeness of the statement, or with intentional disregard to the requirements to obtain and provide relevant information, the person is to be taken to have been reckless as to whether the statement is false or misleading in a material particular.
- (3) A reference in subsection (1) to a statement made to an officer is a reference to a statement made to a person exercising powers under or in relation to this Act, whether the statement is made orally, in a document or in any other form, and includes, for example, a statement:
- (a) made in an application, form, notification, appeal or other document made, given or lodged, or purporting to be made, given or lodged, under this Act; or
  - (b) made in answer to a question asked of the person under this Act; or
  - (c) made in any information given, or purporting to have been given, under this Act.

### **159B Failure to notify required information**

- (1) A person commits an offence if:
- (a) the person is required to notify information to the Registrar; and
  - (b) the requirement is a requirement under section 63A; and
  - (c) the person fails to notify the Registrar; and
  - (d) the person is reckless as to the requirement.

Penalty: 5 penalty units.

- (2) Strict liability applies to paragraph (1)(b).
- (3) In a prosecution of a person for an offence against subsection (1), if, having regard to:

- (a) the person's abilities, experience, qualifications and other attributes; and
  - (b) all the circumstances surrounding the alleged offence;
- the person has acted without reasonable care or with intentional disregard to the requirement to notify the Registrar as required by section 63A, the person is to be taken to have been reckless as to that requirement.

### **160 Notification requirements**

- (1) The Registrar may, by written notice given to a person to or by whom child support is payable, require the person to notify the Registrar, within 14 days and in the manner specified in the notice, if:
  - (a) an event or change of circumstances specified in the notice happens; or
  - (b) the person becomes aware that an event or change of circumstances specified in the notice is likely to happen.
- (2) An event or change of circumstances must not be specified in a notice under subsection (1) 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.
- (3) A person who refuses or fails to comply with a notice under subsection (1) commits an offence punishable on conviction by imprisonment for a period not exceeding 6 months.
- (3A) Subsection (3) applies only to the extent to which the person is capable of complying with the notice.
- (3B) Subsection (3) does not apply if the person has a reasonable excuse.
- (3C) Subsection (3) is an offence of strict liability.
- (4) It is a reasonable excuse for a person to refuse or fail to comply with a requirement under subsection (1) if complying with the requirement may tend to incriminate the person.

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- (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.

### **161 Obtaining of information and evidence**

- (1) The Registrar may, where it is reasonably necessary for the purposes of this Act, by written notice, require a person:
- (a) to give to the Registrar, within a reasonable period (being a period of not less than 7 days), and in a reasonable manner, specified in the notice, such information as the Registrar requires; 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 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.
- (2) The regulations must prescribe scales of expenses to be allowed to persons required to attend under this section.
- (3) A person who refuses or fails to comply with a requirement made under subsection (1) commits an offence punishable on conviction by imprisonment for a period not exceeding 6 months.
- (3A) Subsection (3) applies only to the extent to which the person is capable of complying with the requirement.
- (3B) Subsection (3) does not apply if the person has a reasonable excuse.
- (3C) Subsection (3) is an offence of strict liability.
- (4) It is a reasonable excuse for a person to refuse or fail to comply with a requirement under subsection (1) if complying with the requirement may tend to incriminate the person.

- (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.

### **162 Order to comply with requirement**

- (1) Where:
- (a) a person is convicted before a court of an offence against subsection 161(3); or
  - (b) a court makes an order under section 19B of the *Crimes Act 1914* in relation to a person in relation to an offence against subsection 161(3);
- in relation to the refusal or failure of the person to comply (whether in whole or part) with a requirement made by or under this Act, the court may, in addition to imposing a penalty on the person or making such an order in relation to the person, as the case may be, and even though the time for complying with the requirement or any other such requirement has passed, order the person to comply with:
- (c) the requirement; and
  - (d) such other requirements made, or that could be made, in relation to the person by or under this Act as the court considers necessary to ensure the effectiveness of the first-mentioned requirement;
- within a specified time or at a specified place and time.
- (2) If an order under subsection (1) is not given orally by the court to the person to whom the order is addressed, the proper officer of the court must cause a copy of the order to be served on the person in the prescribed manner.
- (3) A person who contravenes an order under subsection (1) commits an offence punishable on conviction by imprisonment for a period not exceeding 12 months.
- (4) Strict liability applies to the element of an offence against subsection (3) that an order is an order under subsection (1).

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**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.

### **162C Requesting information for the purposes of a care percentage determination under the family assistance law**

The Registrar may request a person:

- (a) to give information; or
- (b) to produce a document that is in the person's custody or under the person's control;

to the Registrar if the Registrar considers that the information or document may be relevant to the making or revoking of a determination under Subdivision D or E of Division 1 of Part 3 of the Family Assistance Act.

### **163 Act not a taxation law**

This Act is not a taxation law within the meaning of the *Taxation Administration Act 1953*.

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**163A Certain instruments not liable to duty**

- (1) The following agreements, deeds and other instruments are not subject to any duty or charge under any law of a State or Territory or any law of the Commonwealth that applies only in relation to a Territory:
  - (a) a deed or other instrument executed by a person under, or for the purposes of, an order made by a court under this Act;
  - (b) an eligible child support agreement that confers a benefit in relation to a child eligible for administrative assessment, to the extent to which the agreement confers the benefit;
  - (c) a deed or other instrument:
    - (i) that is executed by a person under, or for the purposes of, an eligible child support agreement; and
    - (ii) that confers a benefit in relation to a child eligible for administrative assessment; to the extent to which it confers the benefit.
- (2) A child support agreement is an eligible child support agreement for the purposes of this section if:
  - (a) it has been accepted by the Registrar; and
  - (b) it is a child support agreement of one of the following kinds:
    - (i) a child support agreement made in connection with the dissolution or annulment of the marriage to which the agreement relates;
    - (ii) a child support agreement (other than an agreement falling within subparagraph (i)) made in contemplation of the dissolution or annulment of the marriage to which the agreement relates;
    - (iii) a child support agreement (other than an agreement falling within subparagraph (i) or (ii)) made in connection with the breakdown of the marriage to which the agreement relates;
    - (iv) a child support agreement made in connection with the breakdown of the de facto relationship to which the agreement relates;

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- (v) a child support agreement (other than a child support agreement falling within subparagraph (i), (ii), (iii) or (iv)) that relates to a child whose parents were not:
  - (A) married to each other; or
  - (B) in a de facto relationship with each other; at the time the child was conceived.
- (3) For the purposes of this section, a child support agreement, deed or other instrument that confers an entitlement to property in relation to a child may be taken to confer a benefit in relation to the child even though the agreement, deed or other instrument also deprives the child or another person of an entitlement to other property (being property of an equal or greater value) in relation to the child.
- (4) In this section:
  - (a) a reference to the marriage to which a child support agreement relates is a reference to the marriage the parties to which are parties to the agreement; and
  - (b) a reference to the de facto relationship to which a child support agreement relates is a reference to the de facto relationship the parties to which are parties to the agreement.
- (5) In this section:

***de facto relationship*** means:

  - (a) a relationship between 2 persons (whether of the same sex or different sexes) who, although not legally married to each other, live with each other on a genuine domestic basis in a relationship as a couple; or
  - (b) a relationship between 2 persons (whether of the same sex or different sexes) that is registered under a law of a State or Territory prescribed for the purposes of section 2E of the *Acts Interpretation Act 1901* as a kind of relationship prescribed for the purposes of that section.

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**163B Regulations in relation to overseas-related maintenance obligations etc.**

- (1) The regulations may make provision for, and in relation to, giving effect to international maintenance arrangements.
- (2) Regulations made for the purposes of this section may:
  - (a) confer jurisdiction on a federal court (other than the High Court) or a court of a Territory; or
  - (b) invest a court of a State with federal jurisdiction.

**164 Regulations**

The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act;

and, in particular, may make regulations prescribing penalties not exceeding a fine of 10 penalty units for offences against the regulations.

## Schedule 1—The Costs of the Children Table

Note: See sections 55G and 55HA.

### 1 The Costs of the Children Table

The Costs of the Children Table has effect.

<b>Costs of the Children Table</b>						
<b>Parents' combined child support income or parent's child support income</b>						
<b>Fraction of MTAWE</b>	<b>0 to 0.5</b>	<b>0.5 to 1</b>	<b>1 to 1.5</b>	<b>1.5 to 2</b>	<b>2 to 2.5</b>	<b>Over 2.5</b>
<b>Child support children</b>						
<b>Costs of the children</b>						
<b>All children aged 0-12 years</b>						
<b>1 child</b>	17%	15%	12%	10%	7%	
<b>2 children</b>	24%	23%	20%	18%	10%	
<b>3 children</b>	27%	26%	25%	24%	18%	
<b>All children aged 13+ years</b>						
<b>1 child</b>	23%	22%	12%	10%	9%	
<b>2 children</b>	29%	28%	25%	20%	13%	
<b>3 children</b>	32%	31%	30%	29%	20%	
<b>At least one child aged 0-12 years and one child aged 13+ years</b>						
<b>2 children</b>	26.5%	25.5%	22.5%	19%	11.5%	
<b>3 children</b>	29.5%	28.5%	27.5%	26.5%	19%	

### 2 Child support income ranges—fraction of MTAWE row

- (1) In each column of the Fraction of MTAWE row are specified 2 amounts. These amounts refer to:

Clause 3

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- (a) the parents' combined child support income; or
  - (b) if only one parent's income is to be used—the parent's child support income.
- (2) To work out the first dollar amount in each column (other than the first column), take the second amount in the previous column (worked under subclause (3)) and add one dollar.

Note: The first dollar amount in each column is the lowest combined child support income, or child support income, covered by that column.

- (3) To work out the second dollar amount in each column (other than the last column), multiply the second fraction specified in that column by the annualised MTAWE figure for the relevant June quarter.

Note: The second dollar amount in each column is the highest combined child support income, or child support income, covered by that column.

### 3 Costs of the children

- (1) Each item in the Costs of the Children Table sets out a method of working out the costs of the children.
- (2) If, under section 55G or 55HA, an item is identified in the first column of the table, the *costs of the children* is the amount that is the percentage specified in that item of the parents' combined child support income, or the parent's child support income, (as the case requires).
- (3) If, under section 55G or 55HA, an item (the *relevant item*) is identified in a row in the second, third, fourth or fifth column (the *relevant column*), the *costs of the children* is the total of the following amounts:
- (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;
- (b) in any case—the amount worked out by multiplying the percentage specified in the relevant item by the difference between:
- (i) the parents' combined child support income, or the parent's child support income, (as the case requires); and
  - (ii) the highest combined child support income or child support income in the previous column.
- (4) If, under section 55G or 55HA, an item is identified in a row in the last column, the *costs of the children* is the total of the amounts worked out for the items in that row in each of the previous columns in accordance with paragraphs (3)(aa) and (a).

## Endnotes

Endnote 1—About the endnotes

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## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment



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Endnote 1—About the endnotes

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can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.

## Endnotes

### Endnote 2—Abbreviation key

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#### Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous (prev...) = previously
def = definition(s)	Pt = Part(s)
Dict = Dictionary	r = regulation(s)/rule(s)
disallowed = disallowed by Parliament	reloc = relocated
Div = Division(s)	renum = renumbered
ed = editorial change	rep = repealed
exp = expires/expired or ceases/ceased to have effect	rs = repealed and substituted
F = Federal Register of Legislation	s = section(s)/subsection(s)
gaz = gazette	Sch = Schedule(s)
LA = <i>Legislation Act 2003</i>	Sdiv = Subdivision(s)
LIA = <i>Legislative Instruments Act 2003</i>	SLI = Select Legislative Instrument
(md) = misdescribed amendment can be given effect	SR = Statutory Rules
(md not incorp) = misdescribed amendment cannot be given effect	Sub-Ch = Sub-Chapter(s)
mod = modified/modification	SubPt = Subpart(s)
No. = Number(s)	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnote 3—Legislation history

**Endnote 3—Legislation history**

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Child Support (Assessment) Act 1989	124, 1989	21 Sept 1989	1 Oct 1989 (s 2(1) and gaz 1989, No S314)	
Social Security and Veterans' Affairs Legislation Amendment Act (No. 3) 1989	163, 1989	19 Dec 1989	s 6: 19 Dec 1989 (s 2)	—
Child Support Legislation Amendment Act 1990	138, 1990	28 Dec 1990	s 4–9: 28 Dec 1990 (s 2)	—
Child Support Legislation Amendment Act 1992	13, 1992	6 Apr 1992	s 4–13: 6 Apr 1992 (s 2)	—
Child Support Legislation Amendment Act (No. 2) 1992	151, 1992	11 Dec 1992	s 6, 7, 10, 11 and 14–20: 1 July 1993 (s 2(4)) s 8, 9, 12, 13 and 21–30: 11 Dec 1992 (s 2(1))	—
Child Support Legislation Amendment Act 1995	39, 1995	29 May 1995	s 4–10 and 12: 29 May 1995 (s 2(1))	s 5 and 12
Social Security Legislation Amendment (Family Measures) Act 1995	106, 1995	29 Sept 1995	Sch 8: 1 Jan 1996 (s 2(3))	—
Family Law Reform (Consequential Amendments) Act 1995	140, 1995	12 Dec 1995	Sch 1 (items 3–34): 11 June 1996 (s 2(2))	—
Statute Law Revision Act 1996	43, 1996	25 Oct 1996	Sch 2 (items 23–27): 1 Oct 1989 (s 2(2))	—

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## Endnotes

### Endnote 3—Legislation history

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<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Commonwealth Services Delivery Agency (Consequential Amendments) Act 1997	29, 1997	17 Apr 1997	Sch 2 (items 1–6): 1 July 1997 (s 2)	—
Income Tax (Consequential Amendments) Act 1997	39, 1997	17 Apr 1997	Sch 3 (items 19–52): 1 July 1997 (s 2)	—
Child Support Legislation Amendment Act (No. 1) 1997	84, 1997	23 June 1997	s 4 and Sch 1 (items 1–20, 26–28): 21 July 1997 (s 2(1)) Sch 1 (items 21–25): 23 Dec 1997 (s 2(2))	s 4
Social Security Legislation Amendment (Parenting and Other Measures) Act 1997	197, 1997	11 Dec 1997	Sch 1 (items 287–297): 20 Mar 1998 (s 2(2))	—
Social Security and Veterans' Affairs Legislation Amendment (Budget and Other Measures) Act 1998	93, 1998	15 July 1998	Sch 7 (items 2–10): 1 Apr 1998 (s 2(9))	—

## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Child Support Legislation Amendment Act 1998	120, 1998	15 Dec 1998	s 4(1)–(3), (5), (6), 5, 6, Sch 1, 2, Sch 3 (items 1–9), Sch 5, 6, Sch 8 (items 1–5), Sch 9 (items 1–19), Sch 13–16, Sch 18, Sch 19 (items 1–17, 20), Sch 21, Sch 22 (items 1–8), Sch 23 (items 1–3) and Sch 24 (items 1–5): 15 Dec 1998 (s 2(1), (5)–(8), (11), (13)) Sch 7 (items 1, 2), Sch 23 (items 4, 5) and Sch 24 (item 6): 1 July 1999 (s 2(9), (12), (14) and gaz 1999, No S261)	s 4(1)–(3), (5), (6), 5, 6, Sch 14 (item 5), Sch 16 (items 79, 80) and Sch 19 (item 20)
A New Tax System (Family Assistance) (Consequential and Related Measures) Act (No. 2) 1999	83, 1999	8 July 1999	Sch 4: 1 July 2000 (s 2(2))	—
Public Employment (Consequential and Transitional) Amendment Act 1999	146, 1999	11 Nov 1999	Sch 1 (items 285, 286): 5 Dec 1999 (s 2(1), (2))	—
Federal Magistrates (Consequential Amendments) Act 1999	194, 1999	23 Dec 1999	Sch 8: 23 Dec 1999 (s 2(1))	—

## Endnotes

### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
A New Tax System (Family Assistance and Related Measures) Act 2000	45, 2000	3 May 2000	Sch 4 (items 2–9), Sch 5 and 6: 1 July 2000 (s 2(4), (8))	Sch 5 and Sch 6
Child Support Legislation Amendment Act 2000	49, 2000	3 May 2000	Sch 1 (items 1, 2): 3 May 2000 (s 2)	—
Family Law Amendment Act 2000	143, 2000	29 Nov 2000	Sch 3 (items 1–4, 4A, 4B): 27 Dec 2000 (s 2(1))	—
Child Support Legislation Amendment Act 2001	75, 2001	30 June 2001	Sch 3, Sch 5 (items 1–35), Sch 7, 9 and Sch 10 (items 7–14, 19–22): 30 June 2001 (s 2(1)) Sch 10 (item 1): 26 Sept 1998 (s 2(5)) Sch 10 (items 2, 6, 15–18, 23): 15 Dec 1998 (s 2(6), (8), (9)) Sch 10 (items 3–5): 1 July 2000 (s 2(7))	—
Family and Community Services Legislation Amendment (Application of Criminal Code) Act 2001	137, 2001	1 Oct 2001	s 4 and Sch 1 (item 42–48): 2 Oct 2001 (s 2(1))	s 4
Tax Laws Amendment (Improvements to Self Assessment) Act (No. 2) 2005	161, 2005	19 Dec 2005	Sch 1 (items 60, 61): 19 Dec 2005 (s 2)	Sch 1 (item 61)
Jurisdiction of Courts (Family Law) Act 2006	22, 2006	6 Apr 2006	Sch 1 (items 1–4): 1 July 2006 (s 2(1) item 2)	—

## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Family Law Amendment (Shared Parental Responsibility) Act 2006	46, 2006	22 May 2006	Sch 8 (items 5–39) and Sch 9 (item 3): 1 July 2006 (s 2(1) items 9, 10)	—
<b>as amended by</b>				
Statute Law Revision Act 2007	8, 2007	15 Mar 2007	Sch 2 (items 8, 9): 1 July 2006 (s 2(1) items 33, 34)	—
<b>as amended by</b>				
Statute Law Revision Act 2008	73, 2008	3 July 2008	Sch 2 (item 26): 1 July 2006 (s 2(1) item 61)	—
Child Support Legislation Amendment (Reform of the Child Support Scheme—Initial Measures) Act 2006	53, 2006	15 June 2006	s 4 and Sch 5 (items 1–8, 18–21): 15 June 2006 (s 2(1) items 1, 9) Sch 1, Sch 2 (items 1–10, 13 and Sch 3: 1 July 2006 (s 2(1) items 2–4, 7, 8)	s 4, Sch 1 (item 11), Sch 2 (item 13), Sch 3 (item 18) and Sch 5 (items 18–21)
<b>as amended by</b>				
Statute Law Revision Act 2007	8, 2007	15 Mar 2007	Sch 2 (item 5): 1 July 2006 (s 2(1) item 30)	—
Statute Stocktake Act (No. 1) 2011	100, 2011	15 Sept 2011	Sch 1 (item 4): 16 Sept 2011 (s 2)	—
Families, Community Services and Indigenous Affairs and Other Legislation (2006 Budget and Other Measures) Act 2006	82, 2006	30 June 2006	Sch 12 (item 3): 1 July 2006 (s 2(1) item 14)	—

## Endnotes

### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006	146, 2006	6 Dec 2006	Sch 1, Sch 2 (items 3–98, 115, 116A, 117), Sch 5 (items 1–29, 31–54, 64–71, 73, 73A, 74–76), Sch 6 and Sch 7 (items 1, 2, 11, 12): 1 July 2008 (s 2(1) (items 2, 3, 7, 8, 12) Sch 2 (item 118): 6 Dec 2006 (s 2(1) (item 4) Sch 3 (items 1–37, 77, 78(1), (3), 80) and Sch 4 (items 1–23, 42, 43, 46): 1 Jan 2007 (s 2(1) items 5, 6) Sch 9: 22 June 2007 (s 2(1) item 3 of Act No. 82, 2007)	Sch 2 (item 115, 116A, 117, 118), Sch 3 (items 77, 78(1), (3), 80), Sch 4 (items 42, 43, 46), Sch 5 (items 73, 73A, 74–76, Sch 6 (item 12) and Sch 9
<b>as amended by</b>				
Families, Community Services and Indigenous Affairs Legislation Amendment (Child Support Reform Consolidation and Other Measures) Act 2007	82, 2007	21 June 2007	Sch 1 (item 1): 6 Dec 2006 (s 2(1) item 2) Sch 1 (item 21): 22 June 2007 (s 2(1) item 3) Sch 1 (items 99, 100): 1 Jan 2008 (s 2(1) item 5) Sch 1 (items 213, 214): 1 July 2008 (s 2(1) item 9)	—



## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Act 2008	63, 2008	30 June 2008	Sch 6 (items 16, 17): 6 Dec 2006 (s 2(1) item 21)	—
Families, Community Services and Indigenous Affairs and Veterans' Affairs Legislation Amendment (2006 Budget Measures) Act 2006	156, 2006	8 Dec 2006	Sch 4 (item 3): 8 Dec 2006 (s 2(1) item 4)	—

## Endnotes

### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Families, Community Services and Indigenous Affairs Legislation Amendment (Child Support Reform Consolidation and Other Measures) Act 2007	82, 2007	21 June 2007	s 4 and Sch 12 (items 18–23): 21 June 2007 (s 2(1) items 1, 41) Sch 1 (items 2–19, 78–80) and Sch 4 (items 1–10): 22 June 2007 (s 2(1) items 3, 14) Sch 1 (items 92–100), Sch 3 (items 1–17) and Sch 4 (items 21–38): 1 Jan 2008 (s 2(1) items 4, 5, 12, 15) Sch 1 (items 103–192), Sch 2 (items 114–149), Sch 3 (items 29–49) and Sch 4 (items 47–53): 1 July 2008 (s 2(1) items 7, 11, 13, 16) Sch 2 (items 1–44): 19 July 2007(s 2(1) item 10)	s 4, Sch 1 (items 78–80, 98) and Sch 4 (items 23, 33)
<b>as amended by</b>				
Statute Law Revision Act 2008	73, 2008	3 July 2008	Sch 2 (item 16): 21 June 2007 (s 2(1) item 52) Sch 2 (items 17, 18): 22 June 2007 (s 2(1) items 53, 54)	—
Statute Law Revision Act 2010	8, 2010	1 Mar 2010	Sch 2 (items 7, 8): 1 July 2008 (s 2(1) items 10, 11)	—

## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Family Law Amendment (De Facto Financial Matters and Other Measures) Act 2008	115, 2008	21 Nov 2008	Sch 2 (items 19–21): 1 Mar 2009 (s 2(1) item 3)	—
Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Further 2008 Budget and Other Measures) Act 2008	143, 2008	9 Dec 2008	Sch 3 (items 1–11, 14–31): 6 Jan 2009 (s 2(1) items 8, 10) Sch 3 (items 32–49): 10 Dec 2008 (s 2(1) item 11)	Sch 3 (items 11, 26, 29, 31, 49)
Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008	144, 2008	9 Dec 2008	Sch 6 (items 22A–22H): 1 July 2009 (s 2(1) item 14)	—
Tax Laws Amendment (2009 Measures No. 1) Act 2009	27, 2009	26 Mar 2009	Sch 3 (items 33–35, 102(1), (2)(b), (c)): 27 Mar 2009 (s 2(1) item 5)	Sch 3 (item 102(1), (2)(b), (c))
Child Support and Family Assistance Legislation Amendment (Budget and Other Measures) Act 2010	65, 2010	28 June 2010	Sch 1 (items 1–47, 51, 52) and Sch 2 (items 39–70, 100–112): 1 July 2010 (s 2(1) item 2)	Sch 1 (items 51, 52) and Sch 2 (items 100–112)
Statute Law Revision Act 2011	5, 2011	22 Mar 2011	Sch 6 (items 14, 15) and Sch 7 (item 33): 19 Apr 2011 (s 2(1) items 15, 18)	—
Human Services Legislation Amendment Act 2011	32, 2011	25 May 2011	Sch 4 (items 50–55): 1 July 2011 (s 2(1) item 3)	—

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## Endnotes

### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Sch 2 (items 325–333) and Sch 3 (items 10, 11): 27 Dec 2011 (s 2(1) items 3, 12)	Sch 3 (items 10, 11)
Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Further Election Commitments and Other Measures) Act 2011	53, 2011	28 June 2011	Sch 3 and Sch 5 (item 32): 1 July 2011 (s 2(1) items 2, 4)	Sch 3 (items 9–11)
Social Security and Other Legislation Amendment (Disability Support Pension Participation Reforms) Act 2012	51, 2012	26 May 2012	Sch 4 (items 1–3): 26 May 2012 (s 2(1) item 3) Sch 4 (items 4–21): 1 Jan 2013 (s 2(1) item 4) Sch 4 (items 22–24): 1 July 2013 (s 2(1) item 5)	Sch 4 (items 2, 3, 18, 20, 21, 24)
Social Security and Other Legislation Amendment (2012 Budget and Other Measures) Act 2012	98, 2012	29 June 2012	Sch 5 (items 14–22): 1 July 2012 (s 2(1) item 11) Sch 7 (item 16): 30 June 2012 (s 2(1) item 13)	Sch 5 (item 22)
Social Security and Other Legislation Amendment (Further 2012 Budget and Other Measures) Act 2012	154, 2012	17 Nov 2012	Sch 4 (items 1, 2): 17 Nov 2012 (s 2(1) item 4)	Sch 4 (item 2)

## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Federal Circuit Court of Australia (Consequential Amendments) Act 2013	13, 2013	14 Mar 2013	Sch 1 (items 61–68) and Sch 2 (item 2): 12 Apr 2013 (s 2(1) items 2, 3)	—
Statute Law Revision Act 2013	103, 2013	29 June 2013	Sch 4 (item 2): 29 June 2013(s 2(1) item 16)	—
Social Services and Other Legislation Amendment Act 2014	14, 2014	31 Mar 2014	Sch 12 (items 32–50): 7 Apr 2014 (s 2(1) item 9)	—
Treasury Legislation Amendment (Repeal Day) Act 2015	2, 2015	25 Feb 2015	Sch 4 (items 65, 79): 25 Feb 2015 (s 2(1) item 6)	Sch 4 (item 79)
Norfolk Island Legislation Amendment Act 2015	59, 2015	26 May 2015	Sch 2 (items 81–83): 1 July 2016 (s 2(1) item 5) Sch 2 (items 356–396): 18 June 2015 (s 2(1) item 6)	Sch 2 (items 356–396)
<b>as amended by</b>				
Territories Legislation Amendment Act 2016	33, 2016	23 Mar 2016	Sch 2: 24 Mar 2016 (s 2(1) item 2)	—
Tribunals Amalgamation Act 2015	60, 2015	26 May 2015	Sch 4 (items 1–25) and Sch 9: 1 July 2015 (s 2(1) items 16, 22)	Sch 9
Statute Law Revision Act (No. 1) 2016	4, 2016	11 Feb 2016	Sch 4 (items 1, 10) and Sch 5 (item 2): 10 Mar 2016 (s 2(1) item 6)	—
Courts Administration Legislation Amendment Act 2016	24, 2016	18 Mar 2016	Sch 5 (item 5): 1 July 2016 (s 2(1) item 7) Sch 6: 18 Mar 2016 (s 2(1) item 9)	Sch 6

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## Endnotes

### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Territories Legislation Amendment Act 2016	33, 2016	23 Mar 2016	Sch 3 (item 1): 1 July 2016 (s 2(1) item 3) Sch 3 (item 3): 24 Mar 2016 (s 2(1) item 4)	Sch 3 (item 3)
Statute Update Act 2016	61, 2016	23 Sept 2016	Sch 1 (item 79): 21 Oct 2016 (s 2(1) item 1)	—
Treasury Laws Amendment (Reducing Pressure on Housing Affordability Measures No. 1) Act 2017	132, 2017	13 Dec 2017	Sch 1 (items 23, 24): 1 July 2018 (s 2(1) item 2)	—
Social Services Legislation Amendment (Welfare Reform) Act 2018	26, 2018	11 Apr 2018	Sch 3 (items 2, 98–111): 20 Mar 2020 (s 2(1) item 5)	Sch 3 (items 98–111)
Family Assistance and Child Support Legislation Amendment (Protecting Children) Act 2018	36, 2018	22 May 2018	Sch 1 (items 22–52): 23 May 2018 (s 2(1) items 2, 3) Sch 1 (items 53–76, 78–81, 173–183): 1 July 2018 (s 2(1) items 4–6)	Sch 1 (items 39, 44, 50–52) Sch 1 (items 74–76, 173, 174, 183)
Treasury Laws Amendment (2020 Measures No. 2) Act 2020	79, 2020	3 Sept 2020	Sch 2 (items 1, 9): 1 Oct 2020 (s 2(1) item 2)	Sch 2 (item 9)
Social Services and Other Legislation Amendment (Coronavirus and Other Measures) Act 2020	97, 2020	13 Nov 2020	Sch 6: 14 Nov 2020 (s 2(1) item 6)	Sch 6 (item 6)

## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Services Australia Governance Amendment Act 2020	104, 2020	20 Nov 2020	Sch 1 (items 14, 66): 1 Feb 2020 (s 2(1) item 2)	Sch 1 (item 66)
Federal Circuit and Family Court of Australia (Consequential Amendments and Transitional Provisions) Act 2021	13, 2021	1 Mar 2021	Sch 2 (items 158–167): 1 Sept 2021 (s 2(1) item 5)	—
Veterans' Affairs Legislation Amendment (Exempting Disability Payments from Income Testing and Other Measures) Act 2021	142, 2021	13 Dec 2021	Sch 1 (items 3, 4): 1 Jan 2022 (s 2(1) item 2)	Sch 1 (item 4)
Social Services Legislation Amendment (Child Support Measures) Act 2023	27, 2023	23 June 2023	Sch 1 (items 10–16): 1 July 2023 (s 2(1) item 3)	Sch 1 (item 16)
Family Law Amendment Act 2023	87, 2023	6 Nov 2023	Sch 2 (item 1): 6 May 2024 (s 2(1) item 3)	—
Social Services Legislation Amendment (Child Support and Family Assistance Technical Amendments) Act 2024	11, 2024	28 Mar 2024	Sch 1 (items 5–8, 9, 11, 13): 29 Mar 2024 (s 2(1) item 1)	Sch 1 (items 9, 11, 13)
Administrative Review Tribunal (Consequential and Transitional Provisions No. 1) Act 2024	38, 2024	31 May 2024	Sch 3 (items 55, 56, 211): 14 Oct 2024 (s 2(1) item 2)	—

## Endnotes

### Endnote 3—Legislation history

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<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Family Law Amendment Act 2024	118, 2024	10 Dec 2024	Sch 4 (item 30): 11 Dec 2024 (s 2(1) item 13)	—



## Endnote 4—Amendment history

## Endnote 4—Amendment history

Provision affected	How affected
<b>Part 1</b>	
s 4.....	am No 49, 2000; No 146, 2006
s 4A.....	ad No 137, 2001
s 5.....	am No 151, 1992; No 39, 1995; No 140, 1995; No 39, 1997; No 84, 1997; No 197, 1997; No 93, 1998; No 120, 1998; No 83, 1999; No 194, 1999; No 75, 2001; No 46, 2006; No 53, 2006; No 146, 2006; No 82, 2007; No 144, 2008; No 27, 2009; No 65, 2010; No 46, 2011; No 53, 2011; No 51, 2012; No 13, 2013; No 14, 2014; No 60, 2015; No 26, 2018; No 36, 2018; No 13, 2021; No 142, 2021; No 38, 2024
s 5A.....	ad No 146, 2006 am No 53, 2011; No 51, 2012; No 97, 2020
s 5B.....	ad No 146, 2006 am No 82, 2007
s 6.....	am No 82, 2007
s 7A.....	ad No 120, 1998 am No 146, 2006; No 46, 2011
s 7B.....	ad No 75, 2001 am No 46 and 146, 2006
s 8.....	am No 151, 1992; No 140, 1995; No 120, 1998; No 46, 2006 rep No 146, 2006
s 8A.....	ad No 120, 1998 am No 120, 1998; No 46 and 82, 2006 rep No 146, 2006
s 10.....	am No 2, 2015; No 59, 2015; No 33, 2016
s 11.....	rs No 151, 1992 rep No 120, 1998
s 12.....	am No 140, 1995; No 84, 1997; No 120, 1998; No 146, 2006; No 82, 2007; No 143, 2008; No 36, 2018
s 12A.....	ad No 98, 2012

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
	am No 14, 2014
s 13.....	am No 151, 1992; No 53, 2006; No 82, 2007
s 14.....	am No 82, 2007
s 16.....	am No 59, 2015
s 16A.....	ad No 59, 2015
<b>Part 2</b>	
s 17.....	am No 140, 1995; No 13, 2021
<b>Part 3</b>	
s 22.....	am No 140, 1995
<b>Part 4</b>	
<b>Division 1</b>	
s 23.....	am No 120, 1998; No 146, 2006
s 24.....	am No 84, 1997; No 82, 2007
s 25.....	am No 13, 1992; No 140, 1995; No 84, 1997
	rs No 120, 1998
	am No 82, 2007
	rs No 146, 2006
	am No 82, 2007
s 25A.....	ad No 120, 1998
	am No 82, 2007
	rs No 146, 2006
	am No 82, 2007
s 26.....	rs No 120, 1998; No 146, 2006
s 26A.....	ad No 120, 1998
	rs No 146, 2006
s 27.....	rs No 120, 1998
s 28.....	am No 146, 2006
<b>Division 2</b>	
s 29.....	am No 39, 1995; No 84, 1997; No 120, 1998; No 146, 2006; No 144, 2008
s 29A.....	ad No 146, 2006

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
	rs No 82, 2007
s 29B .....	ad No 82, 2007
s 30.....	am No 82, 2007
s 30A.....	ad No 82, 2007
	am No 82, 2007
s 30B .....	ad No 82, 2007
	am No 82, 2007
s 31.....	am No 140, 1995; No 120, 1998; No 82, 2007
	rs No 146, 2006
	am No 82, 2007
s 32.....	am No 120, 1998
<b>Division 3</b>	
s 33.....	am No 120, 1998
	rs No 146, 2006
	am No 146, 2006; No 82, 2007; No 60, 2015; No 38, 2024
s 34.....	am No 120, 1998; No 146, 2006; No 82, 2007
	rs No 146, 2006
	am No 82, 2007; No 60, 2015; No 38, 2024
<b>Part 4A</b>	
Part 4A.....	ad No 120, 1998
s 34A.....	ad No 120, 1998
	rs No 146, 2006
	am No 46, 2011
s 34B .....	ad No 120, 1998
	rs No 146, 2006
	am No 82, 2007
s 34C.....	ad No 120, 1998
	rs No 146, 2006
<b>Part 5</b>	
Part 5.....	rs No 146, 2006

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
<b>Division 1</b>	
s 35A.....	ad No 146, 2006
<b>Division 2</b>	
<b>Subdivision A</b>	
s 35B.....	ad No 146, 2006
s 35C.....	ad No 146, 2006 am No 36, 2018
<b>Subdivision B</b>	
Subdivision B .....	rep No 120, 1998 ad No 146, 2006
s 35D.....	ad No 146, 2006 am No 143, 2008
s 35.....	am No 120, 1998 rs No 146, 2006 am No 82, 2007; No 65, 2010
s 36.....	am No 120, 1998 rs No 146, 2006
<b>Subdivision C</b>	
s 36A.....	ad No 146, 2006 am No 143, 2008
s 37.....	rs No 146, 2006 am No 82, 2007
s 38.....	am No 39, 1997 rs No 120, 1998 am No 120, 1998 rs No 146, 2006 am No 82, 2007
<b>Subdivision D</b>	
Subdivision D heading.....	am No 140, 1995 rs No 146, 2006
s 38A.....	ad No 120, 1998

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
	am No 120, 1998; No 82, 2007
	rs No 146, 2006
s 39.....	am No 84, 1997; No 120, 1998; No 83, 1999; No 45, 2000; No 75, 2001; No 82, 2007
	rs No 146, 2006
s 40.....	am No 82, 2007; No 143, 2008; No 65, 2010
	rs No 146, 2006
	am No 82, 2007; No 143, 2008; No 65, 2010
<b>Subdivision E</b>	
s 40A.....	ad No 146, 2006
	am No 143, 2008
s 40B.....	ad No 146, 2006
s 40C.....	ad No 146, 2006
s 40D.....	ad No 146, 2006
Subdivision G heading.....	am No 140, 1995 rep No 146, 2006
Subdivision H heading.....	ad No 120, 1998 rep No 146, 2006
<b>Division 3</b>	
<b>Subdivision A</b>	
s 40E.....	ad No 146, 2006
Subdivision AA.....	ad No 82, 2007 rep No 146, 2006
<b>Subdivision B</b>	
Subdivision B heading.....	rs No 120, 1998; No 146, 2006
s 41.....	rep No 120, 1998 ad No 146, 2006 am No 143, 2008 rs No 146, 2006
s 42.....	am No 120, 1998; No 53, 2006 rs No 146, 2006

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
<b>Subdivision C</b>	
s 43.....	am No 140, 1995 rs No 146, 2006 am No 27, 2009; No 65, 2010 rs No 146, 2006 am No 132, 2017
s 44.....	am No 140, 1995; No 120, 1998 rs No 146, 2006 am No 82, 2007; No 65, 2010; No 60, 2015; No 38, 2024
s 45.....	am No 140, 1995; No 39, 1997 rs No 120, 1998 am No 120, 1998 rs No 146, 2006; No 51, 2012
s 45A.....	ad No 120, 1998 am No 120, 1998; No 82, 2007 rep No 146, 2006
Heading to s 46.....	am No 140, 1995 rs No 146, 2006
s 46.....	am No 140, 1995 rs No 120, 1998 am No 120, 1998 rs No 146, 2006 am No 82, 2007; No 65, 2010
s 47.....	am No 140, 1995; No 75, 2001; No 82, 2007 rs No 146, 2006 am No 82, 2007
<b>Division 4</b>	
Division 4.....	rs No 65, 2010
<b>Subdivision A</b>	
s 47A.....	ad No 146, 2006 rep No 65, 2010

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
s 47B.....	ad No 146, 2006 rep No 65, 2010
s 48.....	am No 151, 1992; No 140, 1995; No 120, 1998; No 46, 2006 rs No 146, 2006 am No 82, 2007; No 143, 2008 rs No 65, 2010
<b>Subdivision B</b>	
s 49.....	am No 120, 1998 rs No 146, 2006; No 65, 2010 am No 36, 2018
s 50.....	am No 140, 1995 rs No 146, 2006; No 65, 2010 am No 36, 2018
s 51.....	am No 120, 1998 rs No 146, 2006; No 65, 2010 am No 98, 2012; No 36, 2018
s 52.....	am No 140, 1995; No 120, 1998; No 53, 2006 rs No 146, 2006 am No 143, 2008 rs No 65, 2010 rep No 36, 2018
s 53.....	am No 140, 1995 rs No 146, 2006; No 65, 2010; No 36, 2018 am No 11, 2024
s 53A.....	ad No 36, 2018
s 53B.....	ad No 36, 2018
s 54.....	am No 151, 1992; No 140, 1995; No 120, 1998; No 46, 2006; No 82, 2007 rs No 146, 2006; No 65, 2010
s 54A.....	ad No 120, 1998 am No 46, 2006

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
	rep No 146, 2006
	ad No 65, 2010
	am No 36, 2018
s 54B .....	ad No 120, 1998
	am No 120, 1998; No 46, 2006
	rep No 146, 2006
	ad No 65, 2010
	am No 36, 2018
s 54C .....	ad No 65, 2010
	am No 98, 2011
	rs No 36, 2018
s 54D .....	ad No 65, 2010
s 54E .....	ad No 65, 2010
<b>Subdivision C</b>	
Subdivision C heading .....	rs No 36, 2018
s 54F .....	ad No 65, 2010
	am No 14, 2014
	rs No 36, 2018
	am No 36, 2018; No 11, 2024
s 54FA .....	ad No 36, 2018
s 54G .....	ad No 65, 2010
	am No 14, 2014
s 54H .....	ad No 65, 2010
	am No 14, 2014
	rs No 36, 2018
	am No 36, 2018; No 11, 2024
s 54HA .....	ad No 36, 2018
s 54J .....	ad No 65, 2010
<b>Subdivision D</b>	
s 54K .....	ad No 65, 2010
	am No 14, 2014

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
s 54L .....	ad No 65, 2010 am No 14, 2014; No 60, 2015; No 38, 2024
s 55 .....	am No 39, 1997; No 120, 1998 rep No 120, 1998 ad No 146, 2006 rep No 65, 2010
<b>Division 5</b>	
<b>Subdivision A</b>	
s 55A .....	ad No 146, 2006
<b>Subdivision B</b>	
s 55B .....	ad No 146, 2006
s 55C .....	ad No 146, 2006
s 55D .....	ad No 146, 2006
s 55E .....	ad No 146, 2006 am No 143, 2008
<b>Division 6</b>	
<b>Subdivision A</b>	
s 55F .....	ad No 146, 2006
<b>Subdivision B</b>	
s 55G .....	ad No 146, 2006 am No 82, 2007; No 143, 2008
s 55H .....	ad No 146, 2006 am No 82, 2007
s 55HA .....	ad No 82, 2007 am No 143, 2008
<b>Division 7</b>	
<b>Subdivision A</b>	
s 55J .....	ad No 146, 2006 am No 65, 2010; No 53, 2011
<b>Subdivision B</b>	
Subdivision B .....	rs No 53, 2011

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### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
s 56.....	am No 140, 1995; No 39, 1997; No 120, 1998; No 161, 2005; No 82, 2007 rs No 146, 2006 am No 65, 2010; No 36, 2018
s 57.....	am No 140, 1995; No 39, 1997; No 120, 1998 rs No 146, 2006 am No 65, 2010; No 36, 2018
s 58.....	am No 151, 1992; No 39, 1997; No 120, 1998; No 75, 2001; No 53, 2006 rs No 146, 2006 am No 82, 2007 rs No 53, 2011 am No 51, 2012; No 27, 2023
s 58AA.....	ad No 53, 2011 am No 51, 2012; No 97, 2020
s 58A.....	ad No 82, 2007 rs No 146, 2006 am No 82, 2007; No 36, 2018
<b>Subdivision BA</b>	
Subdivision BA.....	ad No 82, 2007
s 58B.....	ad No 82, 2007 rep No 146, 2006 ad No 82, 2007
s 58C.....	ad No 82, 2007 rep No 146, 2006 ad No 82, 2007
s 58D.....	ad No 82, 2007 am No 51, 2012
s 59.....	am No 151, 1992; No 140, 1995; No 120, 1998; No 82, 2007 rep No 146, 2006

## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
<b>Subdivision C</b>	
Subdivision C heading.....	rs No 65, 2010 rs No 146, 2006; No 65, 2010
s 60.....	am No 151, 1992; No 39 and 84, 1997; No 120, 1998 rs No 120, 1998 am No 82, 2007 rs No 146, 2006 am No 82, 2007 rs No 65, 2010 am No 132, 2017
s 60A.....	ad No 120, 1998 am No 120, 1998; No 146, 2006 rs No 146, 2006 rep No 65, 2010
s 60B.....	ad No 120, 1998 am No 146, 2006 rs No 146, 2006 rep No 65, 2010
s 61.....	am No 151, 1997 rs No 84, 1997 am No 120, 1998 rs No 146, 2006 am No 65, 2010
s 61A.....	ad No 151, 1992 rep No 84, 1997
s 62.....	am No 151, 1992; No 84, 1997; No 120, 1998 rs No 146, 2006 am No 65, 2010
s 62A.....	ad No 65, 2010
s 63.....	am No 151, 1992; No 43, 1996 rs No 84, 1997

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
	am No 120, 1998
	rs No 146, 2006
	am No 65, 2010
s 63AA .....	ad No 65, 2010
s 63AB .....	ad No 65, 2010
	am No 60, 2015; No 38, 2024
<b>Subdivision D</b>	
Subdivision D .....	ad No 65, 2010
s 63AC .....	ad No 65, 2010
s 63AD .....	ad No 65, 2010
	am No 60, 2015; No 38, 2024
s 63AE .....	ad No 65, 2010
	am No 60, 2015; No 38, 2024
s 63AF .....	ad No 65, 2010
<b>Subdivision E</b>	
Subdivision E heading .....	ad No 65, 2010
s 63A .....	ad No 151, 1992
	rep No 84, 1997
	ad No 120, 1998
	am No 82, 2007
	rs No 146, 2006
	am No 82, 2007; No 65, 2010
s 63B .....	ad No 120, 1998
	am No 82, 2007
	rs No 146, 2006
	am No 82, 2007; No 65, 2010
s 63C .....	ad No 146, 2006
	am No 65, 2010
<b>Division 7A</b>	
Division 7A .....	ad No 65, 2010

## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
<b>Subdivision A</b>	
s 64.....	am No 39, 1997; No 120, 1998 rs No 146, 2006 am No 82, 2007 rs No 65, 2010
s 64A.....	ad No 151, 1992 am No 39, 1997; No 120, 1998; No 146, 2006 rs No 146, 2006; No 65, 2010
s 64AA.....	ad No 65, 2010
<b>Subdivision B</b>	
s 64AB.....	ad No 65, 2010 am No 60, 2015; No 38, 2024
s 64AC.....	ad No 65, 2010
s 64AD.....	ad No 65, 2010
s 64AE.....	ad No 65, 2010
<b>Subdivision C</b>	
s 64AF.....	ad No 65, 2010
s 64AG.....	ad No 65, 2010
s 64AH.....	ad No 65, 2010 am No 60, 2015; No 38, 2024
<b>Division 8</b>	
<b>Subdivision A</b>	
s 64B.....	ad No 146, 2006
<b>Subdivision B</b>	
s 65.....	am No 75, 2001 rep No 146, 2006
s 65A.....	ad No 146, 2006 am No 143, 2008; No 65, 2010
s 65B.....	ad No 146, 2006 am No 82, 2007
s 66.....	am No 140, 1995

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
	rs No 120, 1998
	am No 120, 1998; No 53, 2006
	rs No 146, 2006
	am No 82, 2007; No 143, 2008
s 66A.....	ad No 120, 1998
	am No 120, 1998; No 75, 2001; No 53, 2006
	rs No 146, 2006
	am No 143, 2008
s 66B.....	ad No 120, 1998
	rep No 146, 2006
	ad No 82, 2007
s 66C.....	ad No 120, 1998
	am No 146, 2006
	rs No 146, 2006
	am No 82, 2007; No 60, 2015; No 38, 2024
<b>Subdivision C</b>	
s 66D.....	ad No 146, 2006
s 67.....	am No 140, 1995; No 120, 1998
	rs No 146, 2006
s 67A.....	ad No 146, 2006
s 68.....	am No 120, 1998
	rs No 146, 2006
s 69.....	am No 120, 1998
	rs No 146, 2006
s 70.....	am No 75, 2001; No 146, 2006
	rs No 146, 2006
	am No 60, 2015; No 38, 2024
s 71.....	rs No 120, 1998; No 146, 2006
s 72.....	am No 146, 2006
	rs No 146, 2006; No 60, 2015
	am No 38, 2024

## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
s 73.....	rs No 146, 2006
s 73A.....	ad No 146, 2006 am No 82, 2007
s 74.....	am No 140, 1995 rs No 146, 2006
s 74A.....	ad No 120, 1998 rs No 146, 2006 am No 82, 2007; No 143, 2008; No 65, 2010
s 75.....	am No 140, 1995; No 120, 1998; No 75, 2001 rs No 146, 2006 am No 82, 2007; No 143, 2008; No 65, 2010; No 60, 2015; No 38, 2024
s 76.....	am No 151, 1992; No 140, 1995; No 120, 1998; No 146, 2006; No 82, 2007; No 60, 2015 rs No 146, 2006 am No 146, 2006; No 82, 2007; No 143, 2008; No 38, 2024
<b>Division 9</b>	
s 76A.....	ad No 146, 2006
s 77.....	am No 140, 1995; No 120, 1998 rs No 146, 2006
s 78.....	rs No 146, 2006 am No 146, 2006; No 82, 2007; No 46, 2011
s 79.....	am No 140, 1995 rs No 146, 2006
<b>Part 6</b>	
<b>Division 1</b>	
Division 1 .....	rs No 146, 2006
s 80.....	am No 39 and 140, 1995 rep No 146, 2006
s 80A.....	ad No 146, 2006 am No 82, 2007

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### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
s 80B.....	ad No 146, 2006
<b>Division 1A</b>	
Division 1A.....	ad No 146, 2006
<b>Subdivision A</b>	
s 80C.....	ad No 146, 2006
s 80CA.....	ad No 146, 2006
s 80D.....	ad No 146, 2006 am No 36, 2018
<b>Subdivision B</b>	
s 80E.....	ad No 146, 2006 am No 143, 2008
s 80F.....	ad No 146, 2006
s 80G.....	ad No 146, 2006 am No 82, 2007; No 60, 2015; No 36, 2018; No 38, 2024
<b>Division 2</b>	
s 81.....	am No 140, 1995 rs No 146, 2006 am No 36, 2018
s 83.....	am No 120, 1998; No 146, 2006; No 82, 2007
s 84.....	am No 138, 1990; No 140, 1995; No 120, 1998; No 143, 2000 rs No 146, 2006 am No 82, 2007; No 115, 2008
s 85.....	rep No 146, 2006 ad No 36, 2018
<b>Division 2A</b>	
Division 2A.....	ad No 36, 2018
s 86.....	rep No 82, 2007 ad No 36, 2018
s 86A.....	ad No 36, 2018
<b>Division 3</b>	
s 88.....	am No 146, 2006; No 82, 2007

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
s 89.....	am No 39 and 106, 1995; No 197, 1997; No 93 and 120, 1998; No 83, 1999; No 45, 2000; No 146, 2006
<b>Division 4</b>	
s 91.....	am No 146, 2006
s 91A.....	ad No 39, 1995  am No 106, 1995; No 29, 84 and 197, 1997; No 93 and 120, 1998; No 83, 1999; No 45, 2000; No 75, 2001  rep No 146, 2006
s 92.....	am No 39 and 106, 1995; No 197, 1997; No 93, 1998; No 83, 1999; No 45, 2000; No 146, 2006; No 82, 2007
s 93.....	am No 140, 1995; No 120, 1998; No 146, 2006; No 82, 2007; No 36, 2018
s 94.....	am No 120, 1998  rs No 146, 2006  rs No 146, 2006
s 95.....	am No 138, 1990; No 140, 1995; No 143, 2000; No 146, 2006; No 36, 2018
<b>Division 5</b>	
s 96.....	am No 120, 1998; No 146, 2006; No 60, 2015; No 38, 2024
Division 6 .....	rep No 146, 2006
s 97.....	rep No 146, 2006
s 98.....	rep No 146, 2006
<b>Part 6A</b>	
Part 6A heading .....	rs No 146, 2006
Part 6A .....	ad No 13, 1992  rs No 120, 1998
<b>Division 1</b>	
Division 1 .....	rs No 146, 2006
s 98A.....	ad No 13, 1992  am No 151, 1992; No 120, 1998  rs No 120, 1998  am No 75, 2001; No 53, 2006

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
	rs No 146, 2006
<b>Division 2</b>	
s 98B .....	ad No 13, 1992 am No 140, 1995 rs No 120, 1998 am No 146, 2006
s 98C .....	ad No 13, 1992 am No 140, 1995; No 120, 1998 rs No 120, 1998 am No 46, 2006; No 143, 2008
s 98D .....	ad No 13, 1992 am No 140, 1995; No 120, 1998 rs No 120, 1998
s 98E .....	ad No 13, 1992 rs No 120, 1998; No 60, 2015
s 98EA .....	ad No 151, 1992 rep No 120, 1998
s 98F .....	ad No 13, 1992 rs No 120, 1998
s 98G .....	ad No 13, 1992 am No 151, 1992 rs No 120, 1998
s 98H .....	ad No 13, 1992 rs No 120, 1998
s 98J .....	ad No 13, 1992 rs No 120, 1998
s 98JA .....	ad No 120, 1998 rs No 146, 2006 am No 60, 2015; No 38, 2024
<b>Division 3</b>	
s 98K .....	ad No 13, 1992

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
	am No 140, 1995
	rs No 120, 1998
	am No 146, 2006
s 98L .....	ad No 13, 1992
	rs No 120, 1998
s 98M .....	ad No 151, 1992
	rs No 120, 1998
	am No 82, 2007
s 98N .....	ad No 120, 1998
s 98P .....	ad No 120, 1998
s 98Q .....	ad No 120, 1998
s 98R .....	ad No 120, 1998
	rs No 60, 2015
s 98RA .....	ad No 146, 2006
	am No 60, 2015; No 38, 2024
<b>Division 4</b>	
s 98S .....	ad No 120, 1998
	am No 120, 1998; No 75, 2001; No 53 and 146, 2006; No 51, 2012
s 98SA .....	ad No 146, 2006
	rs No 146, 2006
<b>Division 5</b>	
s 98T .....	ad No 120, 1998
s 98U .....	ad No 120, 1998
	am No 120, 1998; No 146, 2006; No 143, 2008
<b>Division 6</b>	
s 98V .....	ad No 120, 1998
	am No 82, 2007
Part 6B .....	ad No 120, 1998
	rep No 146, 2006
<b>Part 7</b>	
Part 7 heading	rs No 146, 2006

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### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
<b>Division 1A</b>	
Division 1A.....	ad No 146, 2006
s 98W.....	ad No 120, 1998 rs No 146, 2006 am No 146, 2006; No 82, 2007 (as am by No 8, 2010)
<b>Division 1</b>	
Division 1 heading.....	rs No 146, 2006
s 98X.....	ad No 120, 1998 rs No 146, 2006 am No 13, 2013 rs No 13, 2021
s 98Y.....	ad No 120, 1998 rep No 146, 2006
s 98YZ.....	ad No 120, 1998 rep No 146, 2006
s 98ZA.....	ad No 120, 1998 rep No 146, 2006
s 98ZB.....	ad No 120, 1998 rep No 146, 2006
s 98ZC.....	ad No 120, 1998 rep No 146, 2006
s 98ZD.....	ad No 120, 1998 rep No 146, 2006
s 98ZE.....	ad No 120, 1998 rep No 146, 2006
s 98ZF.....	ad No 120, 1998 rep No 146, 2006
s 98ZG.....	ad No 120, 1998 rep No 146, 2006
s 98ZH.....	ad No 120, 1998 rep No 146, 2006

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
s 98ZJ.....	ad No 120, 1998 rep No 146, 2006
s 99.....	am No 194, 1999; No 13, 2013; No 13, 2021
s 100.....	am No 138, 1990; No 194, 1999; No 143, 2000; No 13, 2013; No 13, 2021; No 87, 2023; No 118, 2024
s 101.....	am No 194, 1999 rs No 13, 2021
s 102.....	am No 194, 1999; No 143, 2000; No 22, 2006; No 13, 2013 rs No 13, 2021
s 102A.....	ad No 194, 1999 am No 22, 2006; No 13, 2013; No 24, 2016 rep No 13, 2021
s 103.....	am No 194, 1999; No 22, 2006; No 13, 2013 rep No 13, 2021
s 104.....	rep No 13, 2021
s 105.....	am No 194, 1999; No 22, 2006 ed C58 rep No 13, 2021
<b>Division 2</b>	
Division 2 heading.....	rs No 146, 2006; No 82, 2007
s 106.....	am No 120, 1998; No 194, 1999 rs No 146, 2006 am No 82, 2007 rs No 82, 2007
s 106A.....	ad No 120, 1998 am No 120, 1998; No 194, 1999 rs No 146, 2006 am No 82, 2007 (as am by No 8, 2010)
s 106B.....	ad No 82, 2007 rep No 82, 2007
s 107.....	am No 120, 1998; No 194, 1999; No 146, 2006; No 82, 2007

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### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
s 107A.....	ad No 82, 2007 rep No 82, 2007 ad No 154, 2012
s 109.....	am No 120, 1998; No 146, 2006; No 82, 2007
<b>Division 3</b>	
Division 3 .....	rs No 146, 2006
s 110.....	am No 140, 1995; No 120, 1998; No 194, 1999; No 75, 2001 rs No 146, 2006
s 111.....	rs No 146, 2006
s 112.....	am No 140, 1995 rs No 146, 2006 am No 82, 2007
s 113.....	rs No 146, 2006
s 113A.....	ad No 146, 2006 am No 82, 2007
<b>Division 4</b>	
Division 4 heading.....	rs No 146, 2006
s 113B.....	ad No 146, 2006
s 115.....	rs No 13 and 151, 1992 am No 140, 1995; No 120, 1998 rep No 146, 2006
s 116.....	am No 13, 1992; No 140, 1995; No 120, 1998; No 75, 2001; No 146, 2006; No 82, 2007; No 60, 2015
s 117.....	am No 151, 1992; No 140, 1995; No 43, 1996; No 120, 1998; No 75, 2001; No 46, 2006 (as am by No 8, 2007); No 53 and 146, 2006; No 82, 2007; No 143, 2008
s 117A.....	ad No 75, 2001 rep No 146, 2006
s 118.....	am No 138, 1990; No 13, 1992; No 140, 1995; No 120, 1998; No 75, 2001; No 53 and 146, 2006; No 51, 2012
s 119.....	am No 140, 1995
s 120.....	am No 82, 2007

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## Endnote 4—Amendment history

Provision affected	How affected
<b>Division 5</b>	
Division 5 heading.....	am No 140, 1995
s 122.....	am No 140, 1995
s 123.....	am No 140, 1995; No 146, 2006; No 82, 2007
s 123A.....	ad No 146, 2006 am No 82, 2007
s 124.....	am No 140, 1995; No 53 and 146, 2006
s 125.....	am No 140, 1995; No 120, 1998; No 53 and 146, 2006
s 126.....	am No 13, 1992; No 140, 1995; No 146, 2006
s 127.....	am No 140, 1995; No 146, 2006
s 128.....	am No 140, 1995; No 120, 1998 rep No 146, 2006
s 129.....	am No 140, 1995; No 53 and 146, 2006; No 82, 2007
s 130.....	am No 146, 2006
s 131.....	am No 140, 1995; No 146, 2006; No 36, 2018 ed C58
<b>Division 6</b>	
Division 6 heading.....	rs No 146, 2006
Subdivision A .....	rep No 146, 2006
s 132.....	am No 13, 1992; No 120, 1998; No 194, 1999; No 75, 2001 rep No 146, 2006
s 133.....	rep No 146, 2006
s 134.....	rep No 146, 2006
s 135.....	rs No 146, 2006; No 82, 2007
s 136.....	rs No 146, 2006 am No 82, 2007; No 143, 2008; No 36, 2018
s 137.....	am No 146, 2006 ed C58
Subdivision B heading.....	rep No 146, 2006
s 138.....	am No 146, 2006

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### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
<b>Division 7</b>	
Division 7 heading.....	rs No 82, 2007
s 138A.....	ad No 146, 2006 am No 82, 2007
s 139.....	am No 13, 1992; No 120, 1998; No 146, 2006; No 82, 2007; No 60, 2015; No 38, 2024
s 140.....	am No 151, 1992 rep No 82, 2007
<b>Division 8</b>	
s 140A.....	ad No 146, 2006
s 141.....	am No 43, 1996; No 194, 1999
s 142.....	am No 140, 1995; No 82, 2007; No 36, 2018
s 143.....	am No 146, 2006; No 82, 2007; No 36, 2018
<b>Division 9</b>	
s 143A.....	ad No 146, 2006 rs No 82, 2007
s 143B.....	ad No 82, 2007
s 144.....	am No 13, 2021
<b>Part 7A</b>	
Part 7A.....	ad No 146, 2006
<b>Division 1</b>	
s 146A.....	ad No 146, 2006
<b>Division 2</b>	
s 146B.....	ad No 146, 2006 am No 82, 2007; No 60, 2015; No 38, 2024
s 146BA.....	ad No 82, 2007 am No 65, 2010
s 146C.....	ad No 146, 2006 am No 82, 2007; No 65, 2010; No 60, 2015; No 38, 2024
s 146D.....	ad No 146, 2006 am No 143, 2008



## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
s 146E .....	ad No 146, 2006 am No 60, 2015; No 38, 2024
s 146EA .....	ad No 82, 2007
s 146F .....	ad No 146, 2006
<b>Division 3</b>	
s 146G.....	ad No 146, 2006 am No 82, 2007
s 146H.....	ad No 146, 2006
s 146J.....	ad No 146, 2006
s 146K.....	ad No 146, 2006
s 146L .....	ad No 146, 2006
<b>Part 8</b>	
s 147.....	am No 75, 2001
s 148.....	am No 75, 2001
s 149.....	am No 151, 1992; No 43, 1996; No 29, 1997; No 146, 1999; No 75, 2001; No 32, 2011; No 14, 2014
s 150.....	am No 138, 1990; No 151, 1992; No 140, 1995; No 29, 1997; No 120, 1998; No 146, 1999; No 75 and 137, 2001; No 156, 2006; No 82, 2007; No 5 and 32, 2011; No 14, 2014; No 36, 2018
s 150AA.....	ad No 82, 2007 am No 32, 2011; No 14, 2014; No 104, 2020
s 150A.....	ad No 120, 1998
s 150B.....	ad No 75, 2001 am No 146, 2006
s 150C.....	ad No 75, 2001 am No 146, 2006 rep No 53, 2011
s 150D.....	ad No 75, 2001 am No 79, 2020
s 150DA.....	ad No 82, 2007 am No 82, 2007

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
<b>Part 9</b>	
s 150E .....	ad No 146, 2006 am No 82, 2007 ed C64
s 150F .....	ad No 36, 2018
s 151.....	am No 13, 1992; No 140, 1995; No 120, 1998; No 45, 2000; No 82, 2007; No 36, 2018
s 151A.....	ad No 120, 1998 am No 45, 2000; No 75, 2001; No 32, 2011; No 14, 2014 rep No 36, 2018
s 151B.....	ad No 120, 1998 am No 146, 2006
s 151C.....	ad No 120, 1998 rs No 146, 2006 am No 146, 2006; No 60, 2015; No 36, 2018; No 38, 2024
s 151D.....	ad No 120, 1998 am No 75, 2001; No 146, 2006
s 151E.....	ad No 146, 2006
s 152.....	rs No 13, 1992 am No 143, 2000; No 82, 2007; No 115, 2008
s 153.....	am No 39, 1997; No 120, 1998; No 82, 2007 ed C58
s 153A.....	ad No 146, 2006 rep No 146, 2006 am No 4, 2016
s 154.....	am No 120, 1998; No 53, 2006 rep No 146, 2006 rs No 146, 2006
s 155.....	am No 84, 1997; No 120, 1998; No 53, 2006 rs No 120, 1998 am No 53, 2006

## Endnote 4—Amendment history

Provision affected	How affected
	rs No 146, 2006
	am No 53, 2011; No 51, 2012; No 97, 2020
s 157.....	am No 75, 2001
	ed C58
s 158.....	am No 75, 2001
s 158A.....	ad No 120, 1998
	am No 120, 1998
	rep No 120, 1998
s 158B.....	ad No 120, 1998
	rep No 120, 1998
s 159.....	am No 4, 2016
s 159A.....	ad No 120, 1998
	am No 137, 2001; No 4, 2016
s 159B.....	ad No 120, 1998
	am No 75, 2001
	rs No 137, 2001
	am No 4, 2016
s 160.....	am No 138, 1990; No 137, 2001; No 82, 2007; No 4, 2016
s 161.....	am No 137, 2001; No 82, 2007; No 4, 2016
s 162.....	am No 137, 2001; No 4, 2016
s 162A.....	ad No 82, 2007
s 162B.....	ad No 82, 2007
s 162C.....	ad No 65, 2010
s 163A.....	ad No 163, 1989
	am No 144, 2008; No 46, 2011
s 163B.....	ad No 49, 2000
	am No 82, 2007
s 164.....	am No 61, 2016
Part 10.....	rep No 103, 2013
s 165.....	rep No 103, 2013
s 166.....	rep No 103, 2013

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
s 167.....	rep No 103, 2013
s 168.....	rep No 103, 2013
s 169.....	rep No 103, 2013
s 170.....	rep No 103, 2013
s 171.....	rep No 103, 2013
s 172.....	rep No 103, 2013
s 173.....	rep No 103, 2013
s 174.....	rep No 103, 2013
s 175.....	rep No 103, 2013
s 176.....	rep No 103, 2013
s 177.....	rep No 103, 2013
s 178.....	rep No 103, 2013
s 179.....	rep No 103, 2013
s 180.....	rep No 103, 2013
s 181.....	rep No 103, 2013
s 182.....	rep No 103, 2013
s 183.....	rep No 103, 2013
s 184.....	rep No 103, 2013
s 185.....	rep No 103, 2013
s 186.....	rep No 103, 2013
s 187.....	rep No 103, 2013
s 188.....	rep No 103, 2013
Part 11.....	rep No 103, 2013
s 189.....	rep No 103, 2013
s 190.....	rep No 103, 2013
s 191.....	rep No 103, 2013
s 192.....	rep No 103, 2013
s 193.....	rep No 103, 2013
s 194.....	rep No 103, 2013
s 195.....	rep No 103, 2013
Part 12.....	rep No 103, 2013

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
s 196.....	rep No 103, 2013
s 197.....	rep No 103, 2013
s 198.....	rep No 103, 2013
Part 13.....	rep No 103, 2013
s 199.....	rep No 103, 2013
s 200.....	rep No 103, 2013
<b>Schedule 1</b>	
Schedule 1.....	ad No 146, 2006 am No 82, 2007
c 1 .....	ad No 146, 2006
c 2 .....	ad No 146, 2006 am No 51, 2012
c 3 .....	ad No 146, 2006 am No 82, 2007