



Child Support Legislation Amendment Act 1990

No. 138 of 1990

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Child Support Legislation Amendment Act 1990

No. 138 of 1990

An Act to amend the *Child Support (Assessment) Act 1989*, the *Child Support (Registration and Collection) Act 1988* and the *Family Law Act 1975*

[Assented to 28 December 1990]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Child Support Legislation Amendment Act 1990*.

Commencement

2. This Act comes into force on the day on which it receives the Royal Assent.

PART 2—AMENDMENTS OF THE CHILD SUPPORT (ASSESSMENT) ACT 1989

Principal Act

3. In this Part, “Principal Act” means the *Child Support (Assessment) Act 1989*¹.

Matters in relation to which agreements may make provision

4. Section 84 of the Principal Act is amended:

- (a) by omitting from paragraph (1) (a) “at a specified annual rate”;
- (b) by omitting from paragraph (1) (b) “annual” (first occurring);
- (c) by omitting from paragraph (1) (b) “to a specified annual rate”.

Effect of certain provisions of accepted child support agreements

5. Section 95 of the Principal Act is amended:

- (a) by omitting from paragraph (2) (a) “at a specified annual rate”;
- (b) by omitting from paragraph (2) (b) “annual” (first occurring);
- (c) by omitting from paragraph (2) (b) “to a specified annual rate”;
- (d) by omitting subsection (3) and substituting the following subsection:

“(3) If the agreement includes provisions under which a party is to provide child support to another party otherwise than in the form of periodic amounts paid to the other party:

- (a) the provisions have effect, for the purposes of Part 5, as if they were an order made by consent by a court under section 124 (Orders for provision of child support otherwise than in form of periodic amounts paid to custodian entitled to child support); and
- (b) if the agreement or those provisions are registered in a court having jurisdiction under Part VII of the *Family Law Act 1975*—Part XIII (Enforcement of decrees), and Part XIII A (Sanctions for failure to comply with orders and contempt of court), 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.”.

Application of Family Law Act

6. Section 100 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

“(2) Without limiting subsection (1), Part XIII (Enforcement of decrees), and Part XIII A (Sanctions for failure to comply with orders and 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.”.

Orders that may be made under Division

7. Section 118 of the Principal Act is amended by omitting from paragraph (1) (a) “annual”.

Secrecy

8. Section 150 of the Principal Act is amended:

- (a) by adding at the end of paragraph (d) of the definition of

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“person to whom this section applies” in subsection (1) “(other than as a marriage counsellor within the meaning of the *Family Law Act 1975*)”;

- (b) by omitting from subsection (9) “64 (11B)” and substituting “64A (9)”.

Notification requirements

9. Section 160 of the Principal Act is amended by omitting from subsection (2) “annual”.

**PART 3—AMENDMENTS OF THE CHILD SUPPORT
(REGISTRATION AND COLLECTION) ACT 1988**

Principal Act

10. In this Part, “**Principal Act**” means the *Child Support (Registration and Collection) Act 1988*².

Secrecy

11. Section 16 of the Principal Act is amended by omitting from subsection (9) “64 (11B)” and substituting “64A (9)”.

Recovery of debts etc.

12. Section 113 of the Principal Act is amended by adding at the end the following subsection:

“(2) The Registrar may take such steps as the Registrar considers appropriate to keep the payee of a registered maintenance liability informed of action taken to recover debts due to the Commonwealth under this Act in relation to the liability.”.

PART 4—AMENDMENTS OF THE FAMILY LAW ACT 1975

Principal Act

13. In this Part, “**Principal Act**” means the *Family Law Act 1975*³.

14. Section 66BA of the Principal Act is repealed and the following section is substituted:

**Application of Division to children to whom Child Support
(Assessment) Act applies**

“66BA. A court having jurisdiction under this Part must not, at any time, make, revive or vary an order for the maintenance of a child on the application of a person (in this section called the ‘**applicant**’) against, or in favour of, a person (in this section called the ‘**respondent**’) if an

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application could properly be made, at that time, under the *Child Support (Assessment) Act 1989* for administrative assessment of child support (within the meaning of that Act):

- (a) by the applicant seeking payment of child support for the child from the respondent; or
- (b) by the respondent seeking payment of child support for the child from the applicant;

whether or not such an application under that Act has in fact been made by the applicant, the respondent or another person.”.

Cessation of orders

15. Section 66M of the Principal Act is amended by inserting after subsection (3) the following subsections:

“(3A) An order for the maintenance of a child ceases to be in force on the death of the person entitled to receive payments under the order.

“(3B) Subsection (3A) does not apply in relation to an order if:

- (a) the order is expressed to continue in force after the death of the person first entitled to receive payments under the order; and
- (b) the order specifies the person who is to receive the payments after that death.”.

NOTES

1. No. 124, 1989, as amended. For previous amendments, see No. 163, 1989.
2. No. 3, 1988, as amended. For previous amendments, see No. 132, 1988; and Nos. 124 and 163, 1989.
3. No. 53, 1975, as amended. For previous amendments, see Nos. 63, 95 and 209, 1976; No. 102, 1977; No. 23, 1979; No. 2, 1982; Nos. 67 and 72, 1983; Nos. 63, 72 and 165, 1984; Nos. 65, 166 and 193, 1985; Nos. 76 and 168, 1986; Nos. 141 and 181, 1987; Nos. 8, 99 and 120, 1988; and Nos. 124, 157 and 182, 1989.

[*Minister's second reading speech made in—
House of Representatives on 11 November 1990
Senate on 14 November 1990*]