



# Child Support Legislation Amendment Act (No. 2) 1992

No. 151 of 1992

---

## **An Act to amend legislation relating to child support, and for purposes connected to those amendments**

*[Assented to 11 December 1992]*

The Parliament of Australia enacts:

### **PART 1—PRELIMINARY**

#### Short title

5 1. This Act may be cited as the *Child Support Legislation Amendment Act (No. 2) 1992*.

#### Commencement

2.(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

10 (2) Sections 37 and 39 are taken to have commenced on 1 June 1988.

(3) Sections 34, 36 and 41 commence, or are taken to have commenced, on 1 January 1993.

(4) Sections 6, 7, 10, 11, 14, 15, 16, 17, 18, 19 and 20 commence on 1 July 1993.

**PART 2—AMENDMENT OF THE ADMINISTRATIVE  
DECISIONS (JUDICIAL REVIEW) ACT 1977**

**Principal Act**

3. In this Part, “**Principal Act**” means the *Administrative Decisions (Judicial Review) Act 1977*<sup>1</sup>.

5

**Schedule 1**

4. Schedule 1 to the Principal Act is amended by adding at the end the following paragraph:

“(s) determinations made by the Child Support Registrar under Part 6A of the *Child Support (Assessment) Act 1989*.”

10

**PART 3—AMENDMENTS OF THE CHILD SUPPORT  
(ASSESSMENT) ACT 1989**

**Principal Act**

5. In this Part, “**Principal Act**” means the *Child Support (Assessment) Act 1989*<sup>2</sup>.

15

**Interpretation—definitions**

6. Section 5 of the Principal Act is amended:

(a) by omitting the definition of “eligible custodian” and substituting the following definition:

“**‘eligible custodian’**, in relation to a child, means:

20

(a) a person who is the sole or principal provider of ongoing daily care for the child; or

(b) a person who has major access to the child; or

(c) a person who shares ongoing daily care of the child substantially equally with another person; or

25

(d) a person who has substantial access to the child;”;

(b) by omitting the definition of “relevant dependent child” and substituting the following definition:

“**‘relevant dependent child’**, in relation to a liable parent, means a child of the parent, but only if:

30

(a) the parent:

(i) is the sole or principal provider of ongoing daily care for the child; or

(ii) has major access to the child; and

(b) the child is under 18 and not a married person;”;

35

(c) by inserting the following definitions:

“**‘major access’** has the meaning given by subsection 8(3);

**'shared ongoing daily care'** has the meaning given by subsections 8(1) and (2);

**'substantial access'** has the meaning given by subsection 8(3);".

**Interpretation—shared ongoing daily care and substantial access**

5       7. Section 8 of the Principal Act is amended by adding at the end the following subsection:

“(3) For the purposes of this Act, if:

(a) a person is the principal provider of ongoing daily care for a child; and

10       (b) another person has care of the child for at least 30%, but less than 40%, of the nights of the child support year concerned;

then:

15       (c) the first-mentioned person is taken to have care of the child for 65% of those nights, and is referred to in this Act as having **major access** to the child; and

(d) the other person is taken to have care of the child for 35% of those nights, and is referred to in this Act as having **substantial access** to the child.”.

20       8. Section 11 of the Principal Act is repealed and the following section is substituted:

**Interpretation—meaning of “approved form”**

“11. A reference in a provision of this Act to an approved form is a reference to a form that has been approved by the Registrar for the purposes of the provision.”.

25       **Extension and application of Act in relation to maintenance of children**

9. Section 13 of the Principal Act is amended:

(a) by inserting in subsection (1) “Queensland,” after “Victoria,”;

(b) by omitting from subsection (2) “Queensland or” (wherever occurring);

30       (c) by omitting from the end of subsection (2) “, as the case may be”.

**Application of the basic formula etc.**

10. Section 48 of the Principal Act is amended:

(a) by inserting after paragraph (d) the following paragraph:

35       “(da) in determining the exempted income amount of a parent, a child to whom the parent has substantial access is to be disregarded; and”;

(b) by omitting paragraph (e) and substituting the following paragraph:

40       “(e) the child support percentage of either of the relevant parents is the percentage ascertained using the following

table (with the number attributed to each child to whom a parent has major access taken to be 0.65, the number attributed to each child to whom a parent has substantial access taken to be 0.35 and the number attributed to each shared custody child taken to be 0.5):

5

**MODIFIED TABLE OF CHILD SUPPORT PERCENTAGES**

| Number of children for whom either of the relevant parents is a liable parent in relation to the other | Child Support Percentage |
|--|--------------------------|
| Less than 0.35   | Not Applicable*          |
| 0.35   | 8                        |
| 0.50   | 12                       |
| 0.65-0.70  | 14                       |
| 0.85   | 16                       |
| 1.00   | 18                       |
| 1.05   | 19                       |
| 1.15-1.20  | 20                       |
| 1.25-1.35  | 22                       |
| 1.40-1.45  | 23                       |
| 1.50-1.55  | 24                       |
| 1.60-1.70  | 25                       |
| 1.75-1.90  | 26                       |
| 1.95-2.05  | 27                       |
| 2.10-2.20  | 28                       |
| 2.25-2.40  | 29                       |
| 2.45-2.60  | 30                       |
| 2.65-2.85  | 31                       |
| 2.90-3.20  | 32                       |
| 3.25-3.70  | 33                       |
| 3.75-4.20  | 34                       |
| 4.25-4.70  | 35                       |
| 4.75-5.0 or more   | 36                       |

\*If a child is in the care of a parent for less than 30% of the nights, no allowance is made in the formula.”.

**Application of the basic formula etc.**

**11. Section 54 of the Principal Act is amended:**

**(a)** by omitting from the components of the formula in paragraph

10

(b):

“(with the number attributed to each shared custody child of the liable parent and the custodian entitled to child support taken to be 0.5)”

and substituting:

“(with the number attributed to each child to whom a custodian has major access taken to be 0.65, the number attributed to each child to whom a custodian has substantial access taken to be 0.35 and the number attributed to each shared custody child of the liable parent and the custodian entitled to child support taken to be 0.5)”;

15

20

*Child Support Legislation Amendment (No. 2) No. 151, 1992*

(b) by omitting the table from paragraph (c) and substituting the following table:

“MODIFIED TABLE OF CHILD SUPPORT PERCENTAGES

| Number of children in relation to whom the liable parent is a liable parent in relation to all of the custodians entitled to child support | Child Support Percentage |
|--|--------------------------|
| Less than 0.35   | Not Applicable*          |
| 0.35   | 8                        |
| 0.50   | 12                       |
| 0.65-0.70  | 14                       |
| 0.85   | 16                       |
| 1.00   | 18                       |
| 1.05   | 19                       |
| 1.15-1.20  | 20                       |
| 1.25-1.35  | 22                       |
| 1.40-1.45  | 23                       |
| 1.50-1.55  | 24                       |
| 1.60-1.70  | 25                       |
| 1.75-1.90  | 26                       |
| 1.95-2.05  | 27                       |
| 2.10-2.20  | 28                       |
| 2.25-2.40  | 29                       |
| 2.45-2.60  | 30                       |
| 2.65-2.85  | 31                       |
| 2.90-3.20  | 32                       |
| 3.25-3.70  | 33                       |
| 3.75-4.20  | 34                       |
| 4.25-4.70  | 35                       |
| 4.75-5.0 or more   | 36                       |

\*If a child is in the care of a parent for less than 30% of the nights, no allowance is made in the formula.”;

(c) by adding at the end the following subsection:

- 5           “(2) A percentage worked out under this section must be calculated to no more than 2 decimal places, rounding the second decimal place to either 0 or 5.”;

*Child Support Legislation Amendment (No. 2) No. 151, 1992*

(d) by adding after subsection (2) the following examples:

**EXAMPLES:**

**Example 1: Father has no custody**

- . Peter is liable to two custodians - Mary and Jane
- . He is liable to Mary for three children and to Jane for two children
- . Peter's income for calculation of the liability is \$25,598
- . Mary's and Jane's respective incomes are too low to affect the assessment

**Step 1 [Paragraph 54(b)]:**

Calculate the child support percentage for each custodian.

The total number of children is 5. The Table at section 37 shows the child support percentage for 5 children is 36%.

Mary has 3 children. Therefore, the child support percentage for Mary is -

$$\frac{\text{number of children in Mary's custody}}{\text{total number of children}} \times 36\% = \frac{3}{5} \times 36\% = \mathbf{21.60\%}$$

Jane has 2 children. Therefore, the child support percentage for Jane is -

$$\frac{\text{number of children in Jane's custody}}{\text{total number of children}} \times 36\% = \frac{2}{5} \times 36\% = \mathbf{14.40\%}$$

**Step 2 [Part 5 Division 1]:**

Do separate assessments for each custodian, using the two child support percentages calculated above.

For Peter to pay Mary:

|  |   |           |
|--|---|-----------|
| Peter's taxable income for 1 July 1990 to 30 June 1991 | = | \$ 32,000 |
| Adjust by 4.5% to allow for inflation                  | + | \$ 1,440  |
| Peter's child support income amount                    | = | \$ 33,440 |
| Less exempted income amount                            | - | \$ 7,842  |
| Peter's adjusted income amount                         | = | \$ 25,598 |
| Multiply by child support percentage                   | x | 21.6%     |
| Peter's 1992/93 child support annual rate              | = | \$ 5,529  |

For Peter to pay Jane:

|  |   |           |
|--|---|-----------|
| Peter's taxable income for 1 July 1990 to 30 June 1991 | = | \$ 32,000 |
| Adjust by 4.5% to allow for inflation                  | + | \$ 1,440  |
| Peter's child support income amount                    | = | \$ 33,440 |
| Less exempted income amount                            | - | \$ 7,842  |
| Peter's adjusted income amount                         | = | \$ 25,598 |
| Multiply by child support percentage                   | x | 14.4%     |
| Peter's 1992/93 child support annual rate              | = | \$ 3,686  |

## Child Support Legislation Amendment (No. 2) No. 151, 1992

### Example 2: Father shares daily care of one of the children

- . Peter is liable to two custodians - Mary and Jane
- . He is liable to Mary for three children, but shares daily care of one of the children, and Mary has sole daily care of the other two children
- . He is liable to Jane for two children. Jane has sole daily care of both children
- . Peter's income for calculation of the liability is \$25,598
- . Mary's income is \$13,332 and Jane's income is too low to affect the assessment

#### Step 1 [Paragraph 54(b)]:

Calculate the child support percentage for each custodian.

The total number of children is 4.5 (2 + 0.5 for Mary + 2 for Jane). The Table at Paragraph 54(c) is used when the liable parent and at least one of the custodians have shared or divided children between them, or when substantial access is involved. That Table shows the child support percentage for a total of 4.5 children is 35%.

Mary has 2.5 children. Therefore, the child support percentage for Mary is -

$$\frac{\text{number of children in Mary's custody}}{\text{total number of children}} \times 35\% = \frac{2.5}{4.5} \times 35\% = 19.45\%$$

Jane has 2 children. Therefore, the child support percentage for Jane is -

$$\frac{\text{number of children in Jane's custody}}{\text{total number of children}} \times 35\% = \frac{2}{4.5} \times 35\% = 15.55\%$$

#### Step 2 [Part 5 Division 1]: Do an assessment for Peter to pay Jane:

|  |                    |
|--|--------------------|
| Peter's taxable income for 1 July 1990 to 30 June 1991 | \$ 32,000          |
| Adjust by 4.5% to allow for inflation                  | + \$ 1,440         |
| <b>Peter's child support income amount</b>             | <b>= \$ 33,440</b> |
| Less exempted income amount                            | - \$ 7,842         |
| <b>Peter's adjusted income amount</b>                  | <b>= \$ 25,598</b> |
| Multiply by child support percentage                   | x 15.55%           |
| <b>Peter's 1992/93 child support annual rate</b>       | <b>= \$ 3,980</b>  |

#### Step 3 [Section 48]:

Do assessments for Peter and Mary as if they were liable to each other (using the Division 1 basic formula, with modifications).

##### For Peter to pay Mary:

|  |                    |
|--|--------------------|
| Peter's taxable income for 1 July 1990 to 30 June 1991 | \$ 32,000          |
| Adjust by 4.5% to allow for inflation                  | + \$ 1,440         |
| <b>Peter's child support income amount</b>             | <b>= \$ 33,440</b> |
| Less exempted income amount                            | - \$ 7,842         |
| <b>Peter's adjusted income amount</b>                  | <b>= \$ 25,598</b> |
| Multiply by child support percentage                   | x 19.45%           |
| <b>Peter's 1992/93 child support annual rate</b>       | <b>= \$ 4,979</b>  |

##### For Mary to pay Peter:

|   |                    |
|---|--------------------|
| Mary's taxable income for 1 July 1990 to 30 June 1991 | \$ 28,000          |
| Adjust by 4.5% to allow for inflation                 | + \$ 1,260         |
| <b>Mary's child support income amount</b>             | <b>= \$ 29,260</b> |
| Less exempted income amount                           | - \$ 15,928        |
| <b>Mary's adjusted income amount</b>                  | <b>= \$ 13,332</b> |
| Multiply by child support percentage                  | x 12%              |
| <b>Mary's 1992/93 child support annual rate</b>       | <b>= \$ 1,600</b>  |

From S.48 Table: 0.5 children = 12%

Peter owes Mary \$4,979

Mary owes Peter \$1,600

Therefore Peter pays Mary: \$4,979 - \$1,600 = \$3,379

**Taxable income for child support purposes where taxable income under  
Income Tax Assessment Act not readily ascertainable**

12. Section 58 of the Principal Act is amended:

(a) by omitting from subsection (1) “2.5 times” and substituting “such amount as the Registrar considers appropriate, not exceeding 2.5 times”; 5

(b) by inserting after subsection (1) the following subsection:

“(1A) If:

(a) the Registrar is unable to ascertain readily a person’s taxable income under the *Income Tax Assessment Act 1936* for a year of income on the basis of the documents and information in his or her possession (whether as Registrar or Commissioner); and 10

(b) the Registrar (whether as Registrar or Commissioner) has been supplied with information (whether orally or in writing) or a document (whether under this Act, the *Income Tax Assessment Act 1936* or otherwise) for the purpose of ascertaining the person’s taxable income; 15

the Registrar may, in making an administrative assessment of the child support payable by or to the person in relation to a child support year, act on the basis that an amount specified in that information or document is the amount of the person’s taxable income under that Act for the year of income.”; 20

(c) by adding at the end of paragraph (2)(a) “or (1A)”.

**Interpretation** 25

13. Section 59 of the Principal Act is amended in the definition of “income amount order” by omitting from subparagraphs (a)(i) and (b)(i) “being an order” and substituting “or a determination under Part 6A (Departure from administrative assessment of child support), being an order or determination”. 30

**Election where taxable income for child support purposes estimated to have changed**

14. Section 60 of the Principal Act is amended:

(a) by omitting paragraph (1)(b) and substituting the following paragraph: 35

“(b) the amount of the estimate is:

(i) in the case of the first or only election under this section for the year—not more than 85% of the person’s taxable income under that Act for the last relevant year of income (as multiplied by the inflation factor (if any) applicable to the child support year under regulations made for the purposes of section 55); or 40



*Child Support Legislation Amendment (No. 2) No. 151, 1992*

(ii) in the case of a second or subsequent election under this section for the year—less than, or more than, the taxable income referred to in subparagraph (i);”;

5 (b) by omitting from paragraph (3)(b) “3” and substituting “2”.

**Effect of election before 1 July 1993**

15 15. Section 61 of the Principal Act is amended by adding at the end of paragraph (1)(a) “ending before 1 July 1993”.

10 16. After section 61 of the Principal Act the following section is inserted:

**Effect of election after 30 June 1993**

15 “61A.(1) If a person makes an election under section 60 for a child support year beginning after 30 June 1993, the person’s child support income amount in relation to the days in the child support year is to be determined in accordance with regulations made for the purposes of this section.

20 “(2) Without limiting the power to make regulations for the purposes of subsection (1), the regulations may provide for determining different amounts before and after a date in the child support year determined in accordance with the regulations.

“(3) If an income amount order made after the making of the election applies in relation to the person and any part of the child support year, subsection (1) has effect subject to the order.

25 “(4) 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 person and the child support year (whether by amending the assessment or otherwise).

30 “(5) Subject to section 63A, in subsequently making any administrative assessment in relation to the person and the child support year, the Registrar must act in accordance with this section.

“(6) This section does not prevent:

- 35 (a) a court making any order under Division 4 of Part 7 (Orders for departure from administrative assessment in special circumstances); or
- (b) 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.”.

**Revocation of election**

40 17. Section 62 of the Principal Act is amended:

(a) by inserting in subsection (1) “ending before 1 July 1993” after “year”;

(b) by inserting after subsection (1) the following subsection:

“(1A) Subject to subsection (3), a person who has made an election under section 60 in relation to a child support year beginning after 30 June 1993 may, by written notice given to the Registrar, revoke the election, but the revocation has no effect unless, at the same time, the person makes a further election for that year under section 60.”. 5

**Effect of revocation before 1 July 1993**

18. Section 63 of the Principal Act is amended:

(a) by inserting in subsection (1) “ending before 1 July 1993” after “year” (first occurring); 10

(b) by omitting from subsection (4) “Subject to section 61” and substituting “Subject to any further election made under section 60”.

19. After section 63 of the Principal Act the following section is inserted: 15

**Effect of revocation after 30 June 1993**

“63A.(1) If a person who made an election under section 60 for a child support year beginning after 30 June 1993 revokes the election under section 62 and substitutes another election, the person’s child support income amount in relation to the days in the child support year is to be determined in accordance with regulations made for the purposes of this section. 20

“(2) Without limiting the power to make regulations for the purposes of subsection (1), the regulations may provide for determining different amounts before and after a date in the child support year determined in accordance with the regulations. 25

“(3) Subsection (1) does not apply in relation to any day in the child support year in relation to which an income amount order made after the making, but before the revocation, of the election applies in relation to the person. 30

“(4) 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 person and any part of the child support year (whether by amending the assessment or otherwise). 35

“(5) Subject to any further election made under section 60, in subsequently making any administrative assessment in relation to the person and the child support year, the Registrar must act in accordance with subsection (1). 40

“(6) This section does not prevent:

*Child Support Legislation Amendment (No. 2) No. 151, 1992*

- (a) a court making any order under Division 4 of Part 7 (Orders for departure from administrative assessment in special circumstances); or
- (b) 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.”.

20. After section 64 of the Principal Act the following section is inserted in Division 3 of Part 5:

10 **Penalty for underestimating taxable income**

“64A.(1) If:

- (a) a person’s election under section 60 has applied in a child support year beginning after 30 June 1993; and
- (b) the amount of the person’s taxable income under the *Income Tax Assessment Act 1936* for the child support year exceeds, by 10% or more, the amount of the taxable income estimated in the election;

the person is liable to pay to the Registrar, by way of penalty, the amount determined under subsection (2).

20 “(2) The amount of penalty is 10% of the difference between:

- (a) the administrative assessment of child support that would have been made if it were based entirely on the amount of taxable income estimated in the election; and
- (b) the administrative assessment of child support made under section 64.

“(3) The penalty is due and payable upon the issue of the administrative assessment under section 64 and is a debt due to the Commonwealth.

“(4) If:

- (a) paragraph (1)(b) applies because of an amendment of the *Income Tax Assessment Act 1936*, or because of a ruling or determination under that Act; or
- (b) paragraph (1)(b) applies for some other reason, and the Registrar is satisfied that it would be fair and reasonable in the circumstances to remit the whole or part of the penalty;

the Registrar may remit the whole or that part of the penalty.

**Notice of assessment to be given to liable parent etc.**

21. Section 76 of the Principal Act is amended:

(a) by inserting after paragraph (3)(a) the following paragraph:

- “(aa) a statement that specifically draws the attention of the liable parent and the custodian entitled to child support to the right, subject to subsection 98A(2), to apply to

*Child Support Legislation Amendment (No. 2) No. 151, 1992*

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;”;

- (b) by inserting in paragraph (3)(b) “section 115 of this Act and” after “subject to”.

5

**Object of Part**

22. Section 98A of the Principal Act is amended by adding at the end of subsection (2) “or any earlier child support year”.

10

23. After section 98E of the Principal Act the following section is inserted:

**Registrar may refuse to make determination because issues too complex**

“98EA. 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, and recommend that application be made to a court having jurisdiction under this Act for an order under Division 4 of Part 7.”.

15

**Other party to be notified**

20

24. Section 98G of the Principal Act is amended by inserting in subsection (1) “98EA or” after “section”.

25. After section 98L of the Principal Act the following section is inserted in Part 6A:

**Pending application not to affect assessment**

25

“98M. Subject to section 140 (Stay orders), the fact that an application is 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, and any such assessment may be registered under the *Child Support (Registration and Collection) Act 1988*, and amounts of child support and other amounts recovered in relation to the assessment, as if no application were pending.”.

30

26. Section 115 of the Principal Act is repealed and the following section is substituted:

**Cases to which Division applies**

35

“115. This Division applies to an administrative assessment of child support in relation to a child in the following cases:

- (a) where the child support is for a period up to and including the period ending on 30 June 1992 and the custodian entitled to child support or the liable parent wants a court having

40

*Child Support Legislation Amendment (No. 2) No. 151, 1992*

jurisdiction under this Act to make an order having the effect that the provisions of this Act will be departed from in relation to the child in the special circumstances of the case; or

5 (b) where the child support is for a period beginning on or after 1 July 1992 and the Registrar has, on application made under section 98B, either made or refused to make a determination under Part 6A in relation to the child; or

(c) where the child support is for a period beginning on or after 1 July 1992 and:

10 (i) the custodian entitled to child support or the liable parent is party to an application pending in a court having jurisdiction under this Act; and

15 (ii) the court is satisfied that it would be in the interest of the custodian and the parent for the court to consider, at the same time as it hears that application, whether an order should be made having the effect that the provisions of this Act relating to administrative assessment of child support will be departed from in relation to the child in the special circumstances of the case.”.

20 **Matters as to which court must be satisfied before making order**

27. Section 117 of the Principal Act is amended:

(a) by adding at the end of paragraph (2)(a) the following subparagraph:

25 “(iv) high costs involved in enabling a parent to have access to any other child or another person that the parent has a duty to maintain;”;

(b) by inserting in sub-subparagraph (2)(b)(i)(A) “to have” after “parent”;

30 (c) by omitting from subparagraph (2)(c)(ii) “previously made” and substituting “made or to be made”;

(d) by inserting in subsection (3) “subparagraph (2)(a)(iv) and” before “sub-subparagraph”;

(e) by inserting in subsection (3) “to have” after “parent” (first occurring).

35 **Stay orders**

28. Section 140 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

40 “(1) Where a proceeding has been instituted in a court having jurisdiction under this Act or before the Registrar under Part 6A, a party to the proceeding may, subject to the *Family Law Act 1975*, apply to that court, or a court having jurisdiction under this Act, as the case may be, for an order under this section.”.

**Delegation**

**29.** Section 149 of the Principal Act is amended:

(a) by inserting after subsection (1) the following subsection:

“(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.”; 5

(b) by omitting from subsections (2) and (3) “under subsection (1)”.

**Secrecy**

10

**30.** Section 150 of the Principal Act is amended:

(a) by inserting in subsection (1) the following definition:

“‘**law enforcement officer**’ means a member or special member of the Australian Federal Police, a member of the police force of a State or Territory or an officer in the Office of the Director of Public Prosecutions;”;

(b) by adding at the end of the definition of “person to whom this section applies” the following paragraphs:

“(e) a person to whom information is communicated under paragraph (3)(d) or (e); or 20

(f) a person to whom information is communicated by a person referred to in paragraph (e) or this paragraph;”;

(c) by adding at the end of subsection (3) the following word and paragraph:

“; or (e) to a law enforcement officer if: 25

(i) the information concerns a threat against a person; and

(ii) there is reason to suspect that the threat may afford evidence that an offence may be, or has been, committed against that person or another person; and 30

(iii) the information is communicated for the purpose of preventing, investigating or prosecuting such an offence.”;

(d) by inserting after subsection (5) the following subsection: 35

“(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.”;

(e) by omitting “divulge or”, “divulged or”, “divulging or” and “divulges or”, wherever those expressions occur; 40

(f) by omitting from subsection (5) “purpose of carrying into effect the provisions” and substituting “purposes”.

**PART 4—AMENDMENTS OF THE CHILD SUPPORT  
(REGISTRATION AND COLLECTION) ACT 1988**

**Principal Act**

5 31. In this Part, “**Principal Act**” means the *Child Support (Registration and Collection) Act 1988*<sup>3</sup>.

**Interpretation**

32. Section 4 of the Principal Act is amended:

(a) by inserting in subsection (1) the following definition:

“**‘month’** means one of the 12 months of the year;”;

10 (b) in the definition of “**appealable refusal decision**” in subsection (1), by inserting in paragraph (c) “**or 71A**” after “**71**”;

(c) by omitting subsection (2) and substituting the following subsection:

15 “(2) A reference in a provision of this Act to an approved form is a reference to a form approved by the Registrar for the purposes of the provision.”.

**Secrecy**

33. Section 16 of the Principal Act is amended:

(a) by inserting in subsection (1) the following definition:

20 “**‘law enforcement officer’** means a member or special member of the Australian Federal Police, a member of the police force of a State or Territory or an officer in the Office of the Director of Public Prosecutions;”;

25 (b) by adding at the end of the definition of “**person to whom this section applies**” the following paragraphs:

“(e) a person to whom information is communicated under paragraph (3)(d) or (e); or

(f) a person to whom information is communicated by a person referred to in paragraph (e) or this paragraph;”;

30 (c) by adding at the end of subsection (3) the following word and paragraph:

“; or (e) to a law enforcement officer if:

(i) the information concerns a threat against a person; and

35 (ii) there is reason to suspect that the threat may afford evidence that an offence may be, or has been, committed against that person or another person; and

40 (iii) the information is communicated for the purpose of preventing, investigating or prosecuting such an offence.”;

(d) by inserting after subsection (5) the following subsection:

*Child Support Legislation Amendment (No. 2) No. 151, 1992*

- “(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.”;
- (e) by omitting “divulge or”, “divulged or”, “divulging or” and “divulges or”, wherever those expressions occur; 5
  - (f) by omitting from subsection (5) “purpose of carrying into effect the provisions” and substituting “purposes”.

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

34. Section 23 of the Principal Act is amended: 10
- (a) by omitting from subsection (3) “Subject to subsection (4), the” and substituting “The”;
  - (b) by omitting subsection (4).

**Registrar to register liability in Child Support Register on receipt of notification etc.** 15

35. Section 24 of the Principal Act is amended by inserting in subsection (2) “within that period or has not been furnished at all” after “furnished”.

**Penalty for late payment of child support debts**

36. Section 67 of the Principal Act is amended by omitting subsection (1) and substituting the following subsections: 20

“(1) If a child support debt remains unpaid after the time when it became due and payable, the person liable to pay the debt is liable to pay to the Registrar, by way of penalty, an amount calculated on the balance outstanding each month at a monthly rate equal to one-twelfth of the annual rate for the time being specified in the *Income Tax Assessment Act 1936* for the penalty for unpaid income tax. 25

“(1A) For the purposes of subsection (1), the balance outstanding is the total amount of one or more child support debts remaining unpaid.”. 30

**Overpayments of payees**

37. Section 79 of the Principal Act is amended by omitting “Secretary” (wherever occurring) and substituting “Registrar”.

38. After section 84 of the Principal Act the following section is inserted: 35

**Objections against credits under sections 71 and 71A**

“84A.(1) If:

- (a) the Registrar, under section 71 or 71A, credits an amount received by a payee against the liability of the payer to the Commonwealth; and 40



*Child Support Legislation Amendment (No. 2) No. 151, 1992*

(b) the payee is dissatisfied with the decision;  
the payee may, within 28 days after service on him or her of notice of the decision, lodge with the Registrar an objection in writing against the decision.

5 “(2) The objection must state fully and in detail the grounds relied on.”.

**Recovery of debts etc.**

39. Section 113 of the Principal Act is amended by omitting from subsection (1) “(other than under section 79)”.

10 40. Section 114 of the Principal Act is repealed and the following section is substituted:

**Application of payments**

“114. The regulations may, subject to section 70, make provision with respect to the application of payments received by the Registrar.”.

15 **Evidence**

41. Section 116 of the Principal Act is amended by adding at the end the following subsection:

20 “(3) Without limiting the generality of subsection (2), a certificate under that subsection may specify the amount of the outstanding balance of one or more child support debts as described in section 67.”.

---

**NOTE**

1. No. 59, 1977, as amended. For previous amendments, see No. 66, 1978; No. 111, 1980; Nos. 111, 115, 122, 137, 140 and 153, 1982; Nos. 62 and 144, 1983; Nos. 76, 159 and 164, 1984; Nos. 4, 47 and 65, 1985; Nos. 41, 76, 102, 112 and 153, 1986; Nos. 62, 76, 141 and 145, 1987; Nos. 5, 8, 63, 87, 109, 111, 120 and 127, 1988; Nos. 14, 107, 150, 153 and 159, 1989; Nos. 60, 77 and 118, 1990; Nos. 149 and 216, 1991; and No. 92, 1992.
2. No. 124, 1989, as amended. For previous amendments, see No. 163, 1989; No. 138, 1990; and No. 13, 1992.
3. No. 3, 1988, as amended. For previous amendments, see No. 132, 1988; Nos. 124 and 163, 1989; No. 138, 1990; No. 216, 1991; and No. 13, 1992.

[*Minister's second reading speech made in—  
House of Representatives on 3 November 1992  
Senate on 10 November 1992*]