



# **Child Support (Registration and Collection) Amendment Act 2011**

**No. 88, 2011**

***An Act to amend the *Child Support (Registration and Collection) Act 1988*, and for related purposes***

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



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***An Act to amend the *Child Support (Registration and Collection) Act 1988*, and for related purposes***

*[Assented to 4 August 2011]*

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Child Support (Registration and Collection) Amendment Act 2011*.

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## **2 Commencement**

This Act commences on the day after this Act receives the Royal Assent.

## **3 Schedule(s)**

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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## Schedule 1—Amendments

### *Child Support (Registration and Collection) Act 1988*

#### **1 After subsection 15(1A)**

Insert:

- (1B) Without limiting subsection (1) or (1A), the Registrar may, in writing, delegate all or any of his or her powers or functions under this Act to a person engaged (whether as an employee or otherwise) by:
- (a) the Registrar; or
  - (b) an Agency (within the meaning of the *Public Service Act 1999*); or
  - (c) another authority of the Commonwealth; or
  - (d) an organisation that performs services for the Commonwealth.
- (1C) Any information provided to a person as a result of a delegation by the Registrar under subsection (1B) must be retained, processed and stored in Australia at all times and must not in any way be transmitted outside Australia.

#### **2 Subsection 46(1) (penalty)**

Repeal the penalty.

#### **3 Subsections 46(1A) and (3)**

Repeal the subsections.

#### **4 Subsection 46(4)**

Omit “less than the protected earnings amount”, substitute “less than the amount (the *protected earnings amount*) ascertained by applying the protected earnings rate to the period in relation to which the salary or wages are paid”.

#### **5 After subsection 46(4)**

Insert:

- (4A) An employer commits an offence if:
- (a) the employer is required to make a deduction under subsection (1) in relation to an employee; and
  - (b) the employer refuses or fails to make the deduction.

Penalty: 10 penalty units.

- (4B) Subsection (4A) does not apply if the amount of the employee's salary or wages is less than the protected earnings amount.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4B) (see subsection 13.3(3) of the *Criminal Code*).

- (4C) An offence against subsection (4A) is an offence of strict liability.

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

## **6 Subsection 46(5)**

Omit "subsection (1)", substitute "subsection (4A)".

## **7 Subsection 46(8)**

Omit "subsections (3) and (4)", substitute "subsections (4) and (4B)".

## **8 Subsections 47(1), (1A), (2) and (3) (penalty)**

Repeal the penalty.

## **9 Subsection 47(3A)**

Repeal the subsection, substitute:

- (3A) An employer commits an offence if:
- (a) the employer is subject to a requirement under subsection (1); and
  - (b) the employer refuses or fails to comply with the requirement.

Penalty: 50 penalty units, or 12 months imprisonment, or both.

- (3B) An employer commits an offence if:
- (a) the employer is subject to a requirement under subsection (1A) or (2); and
  - (b) the employer refuses or fails to comply with the requirement.

Penalty: 10 penalty units.

- (3C) An employer commits an offence if:



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- (a) the employer is subject to a requirement under subsection (3);  
and
  - (b) the employer refuses or fails to comply with the requirement.

Penalty: 5 penalty units.

- (3D) An offence against subsection (3B) or (3C) is an offence of strict liability.

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

## **10 Subsection 59(2)**

Omit “The records shall be kept”, substitute “An employer who is required by subsection (1) to keep records must keep the records”.

## **11 Subsections 59(3) and (4)**

Repeal the subsections, substitute:

- (3) An employer commits an offence if:
  - (a) the employer is subject to a requirement under subsection (1) or (2); and
  - (b) the employer refuses or fails to comply with the requirement.

Penalty: 20 penalty units.

- (4) Subsection (3) does not apply if:
  - (a) the Registrar has notified the employer that the retention of records under subsection (1) is not required; or
  - (b) the employer is a company that has gone into liquidation and has been finally dissolved.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4) (see subsection 13.3(3) of the *Criminal Code*).

- (5) An offence against subsection (3) is an offence of strict liability.

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

## **12 Subsection 72W(1) (penalty)**

Repeal the penalty.

## **13 Subsection 72W(2)**

Repeal the subsection, substitute:

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- (2) A person commits an offence if:
- (a) an authorised officer requests under subsection (1) that the person give a copy of a departure authorisation certificate to the officer; and
  - (b) the person refuses or fails to comply with the request.

Penalty: 5 penalty units.

- (3) An offence against subsection (2) is an offence of strict liability.

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

#### **14 Paragraph 121(1)(a)**

Repeal the paragraph, substitute:

- (a) a person is convicted before a court of an offence against:
  - (i) subsection 47(3A) in relation to the refusal or failure of the person to comply, in whole or in part, with the requirement under paragraph 47(1)(b); or
  - (ii) subsection 120(3) in relation to the refusal or failure of the person to comply, in whole or in part, with a requirement referred to in that subsection; or

#### **15 Paragraph 121(1)(b)**

Omit “an offence against paragraph 47(1)(b) or subsection 120(3)”, substitute “such an offence”.

#### **16 Subsection 121(1)**

Omit “in relation to the refusal or failure of the person to comply (whether in whole or in part) with a requirement made by or under this Act,”.

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*[Minister's second reading speech made in—  
House of Representatives on 23 March 2011  
Senate on 14 June 2011]*

(43/11)

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