

EXPLANATORY STATEMENT

Select Legislative Instrument 2006 No. 146

Issued by the Authority of the Minister for Families, Community Services and
Indigenous Affairs

Child Support (Assessment) Act 1989

Child Support (Assessment) Amendment Regulations 2006 (No. 1)

The *Child Support (Assessment) Act 1989* (the Act) provides for the assessment of the level of parents' child support liabilities for their children.

Section 164 of the Act provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Section 8A of the Act is an interpretation provision that modifies the meaning of care of a child, or contact with a child, in circumstances where the Child Support Registrar is satisfied that a person does not have a reasonable excuse for contravening a court order or a registered parenting plan in force in relation to a child. Section 66 of the Act provides for the regulations to address how the minimum rate of child support payable by one liable parent is to be apportioned between two or more carers. It is possible, for example, for a liable parent to pay child support to one carer for his or her children of a past relationship with that carer, while also paying child support to a second carer for his or her children of a past relationship with the second carer.

Sections 8A and 66 of the Act have been amended, respectively, by the *Family Law Amendment (Shared Parental Responsibility) Act 2006* (the Family Law Amending Act) and the *Child Support Legislation Amendment (Reform of the Child Support Scheme – Initial Measures) Act 2006* (the Child Support Amending Act), with effect from 1 July 2006.

The *Child Support (Assessment) Regulations 1989* (the Principal Regulations) prescribe matters relevant to the assessment of the level of parents' child support liabilities for their children. Regulation 3A prescribes matters for section 8A of the Act. Regulation 7B prescribes matters for section 66 of the Act.

The purpose of the Regulations is to amend the Principal Regulations to reflect changes flowing from the two amending Acts. The amendments to regulation 3A reflect changes in terminology (notably, from 'contact with a child' to 'care of a child') introduced into the Act by the Family Law Amending Act. The amendments to regulation 7B reflect an increase in the minimum annual rate of child support made by the Child Support Amending Act.

The Regulations commence on the commencement of Schedule 1 to the Child Support Amending Act, with effect from 1 July 2006, to coincide with the commencement of the amendments to the Act.

Consultation

No consultation in relation to these Regulations was undertaken because they do not have a direct or significant indirect impact on business and do not restrict competition.

Details of the Regulations

Regulation 1 – Name of Regulations

This regulation provides that the title of the Regulations is the *Child Support (Assessment) Amendment Regulations 2006 (No. 1)*.

Regulation 2 – Commencement

This regulation provides for the Regulations to commence on the commencement of Schedule 1 to the Child Support Amending Act, to coincide with the commencement of the amendments made to the Act by the Family Law Amending Act and the Child Support Amending Act, with effect from 1 July 2006.

Regulation 3 – Amendment of *Child Support (Assessment) Regulations 1989*

This regulation provides that the Principal Regulations are amended as set out in Schedule 1.

Schedule 1 – Amendments

Items [1], [2] and [3] – paragraph 3A(1)(c), subparagraph 3A(1)(c)(ii) and paragraph 3A(2)(a)

Regulation 3A of the Principal Regulations addresses circumstances in which the Registrar may be satisfied that a person does not have a reasonable excuse for contravening a court order or registered parenting plan in force in relation to a child. In doing so, it uses terminology based on ‘contact with a child’. These items change this terminology to ‘care’ of a child and ‘spend time’ with a person, reflecting changes in terminology introduced into section 8A and the Act generally by the Family Law Amending Act.

Items [4], [5], [6] and [7] – subregulations 7B(1) and (2)

Regulation 7B addresses how the minimum rate of child support (currently \$260 annually) payable by one liable parent is to be apportioned between two or more carers. The first three of these items amend regulation 7B to reflect an increase in the minimum annual rate of child support made by the Child Support Amending Act. The new minimum rate is \$320 (as indexed from time to time), as set out in section 66 of the Act.

The fourth of these items replaces a definition in regulation 7B to reflect the same changes in terminology addressed by items [1], [2] and [3] above.