

EXPLANATORY STATEMENT

Select Legislative Instrument 2006 No. 147

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

Child Support (Assessment) Act 1989

*Child Support (Assessment) (Overseas-related Maintenance Obligations) 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 163B of the Act provides that regulations, which may be inconsistent with the Act, may make provision for, or in relation to, giving effect to an international maintenance agreement that relates to maintenance obligations arising from family relationship, parentage or marriage, or maintenance obligations arising from family relationship, parentage or marriage where the maintenance is claimed from, by or on behalf of a person in a reciprocating jurisdiction.

Section 58 of the Act provides how a person's taxable income, for the purposes of the Act, is to be calculated if the taxable income is not readily ascertainable. In part, the calculation is based on the reference point 'AWE' (that is, average weekly earnings for full-time adults) to provide the figure that sets the 'cap' on a liable parent's income for child support purposes.

Section 58 of the Act is has been amended by the *Child Support Legislation Amendment (Reform of the Child Support Scheme – Initial Measures) Act 2006* (the Amending Act), with effect from 1 July 2006, to lower the cap on income by changing the reference point to 'EAWWE' (that is, average weekly earnings for all employees).

The Regulations reflect this change to 'EAW' as a reference point in the *Child Support (Assessment) (Overseas-related Maintenance Obligations) Regulations 2000* (the Principal Regulations). The Principal Regulations prescribe matters relevant to giving effect to an international maintenance agreement that relates to maintenance obligations arising from family relationship, parentage or marriage, or maintenance obligations arising from family relationship, parentage or marriage where the maintenance is claimed from, by or on behalf of a person in a reciprocating jurisdiction. Regulation 25 prescribes how a person's income is to be calculated if the person or an overseas authority has been requested to provide information or documents relevant to that income but has not done so. As does section 58 of the Act, regulation 25 currently refers to 'AWE' for the cap on a liable parent's income.

The regulations amend the Principal Regulations to replace a reference to 'relevant AWE amount' with 'EAW amount', to reflect the change to section 58 of the Act made by the Amending Act (that is, the lowered cap on income). While regulation 25 of the Principal Regulations is not made under section 58 of the Act, the change made to section 58 needs to be duplicated for regulation 25 so that the provisions work consistently.

The Regulations commence on the commencement of Part 1 of Schedule 2 to the Amending Act, with effect from the later of 1 July 2006 or the day after Royal Assent to the Amending Act, to coincide with the commencement of the amendment to section 58 of 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.