

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2006 No. 347**

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

*Child Support (Registration and Collection) Act 1988*

*Child Support (Registration and Collection) Amendment Regulations 2006 (No. 2)*

The *Child Support (Registration and Collection) Act 1988* (the Act) provides for the enforcement of parents' child support liabilities for their children.

Section 125 of the Act provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all 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.

The Act has been extensively amended by the *Child Support Legislation (Reform of the Child Support Scheme – New Formula and Other Measures) Act 2006* (the Amending Act).

The *Child Support (Registration and Collection) Regulations 1988* (the Principal Regulations) prescribe matters relevant to the enforcement of parents' child support liabilities for their children.

The Regulations amend the Principal Regulations to reflect changes made to the Act by the Amending Act.

Section 113 of the Act provides that debts due to the Commonwealth are payable to the Registrar in the manner and at the place prescribed. Subsection 113(1) is being repealed and replaced by the Amending Act to provide that a payee, as well as the Child Support Registrar, may sue for payment of a child support liability.

The Amending Act inserted provisions into the Act dealing with review by the Social Security Appeals Tribunal (the SSAT) of child support decisions. These provisions include section 103T, which sets out, in subsection 103T(1), the powers of the SSAT for the purposes of reviews. Subsection 103T(3) provides that the regulations may specify provisions of the Act and the *Child Support (Assessment) Act 1989* (the Assessment Act) to which subsection 103T(1) will not apply. It is not appropriate for the SSAT, as a tribunal reviewing child support decisions, to exercise certain of the Registrar's powers and discretions. These powers and discretions are, generally, those relating to the administration and operation of the Child Support Scheme, such as the power to specify the manner in which applications may be made and notices given.

Regulation 8 sets out the place at which, and the manner in which, a child support debt is payable. Regulation 8 is made under section 113 of the Act. The Regulations amend the Principal Regulations by substituting regulation 8 in the same terms.

New regulation 8A, and new Schedule 1, set out the powers under the Act and the Assessment Act that the SSAT may not exercise. Subregulations 9(1) and (2) are also amended, as a consequence of inserting new Schedule 1.

These Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

These Regulations commence on 1 January 2007, to coincide with the commencement of the amendments to the Act made by the Amending 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. Furthermore, the amendments are of a minor or machinery nature, not substantially affecting existing arrangements.

## **Details of the Regulations**

### Regulation 1 – Name of Regulations

This regulation provides that the title of the Regulations is the *Child Support (Registration and Collection) Amendment Regulations 2006 (No. 2)*.

### Regulation 2 – Commencement

This regulation provides that the Regulations commence on 1 January 2007, to coincide with the commencement of Schedules 3 and 4 to the Amending Act.

### Regulation 3 – Amendment of *Child Support (Registration and Collection) Regulations 1988*

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

### Schedule 1 – Amendments

**Item [1]** inserts into regulation 2, before the definition of ‘partnered’, a definition of ‘Act’, and provides that it means the *Child Support (Registration and Collection Act) 1988*. **Item [2]** omits from regulation 2 the definition of ‘the Act’. **Items [1] and [2]** are technical amendments in order to make regulation 2 consistent with current drafting practices.

**Item [3]** substitutes regulation 8. Regulation 8 is remade in the same form as it is presently. It is remade because section 113 of the Act, the section under which this regulation is made, has been repealed and replaced in identical terms by the Amending Act. However, the note following the substituted regulation 8 differs in that it states that details of financial institutions that maintain an account for receipt of payment of a child support debt are set out on the Child Support Agency's website.

**Item [3]** also inserts a new regulation 8A. Regulation 8A provides that subsection 103T(1) of the Act does not apply to a provision of the Act mentioned in Part 1 of Schedule 1, or a provision of the Assessment Act mentioned in Part 2 of Schedule 1. Schedule 1 is inserted by **item [5]** (see below).

**Item [4]** amends subregulations 9(1) and (2), by omitting the words 'the Schedule' and inserting 'Schedule 2'. This is a numbering amendment, as **item [3]** creates a schedule that will be known as Schedule 1.

**Item [5]** inserts Schedule 1 after regulation 16. Part 1 of Schedule 1 sets out the sections of the Act to which subsection 103T(1) does not apply, and in Part 2, sets out the sections of the Assessment Act to which subsection 103T(1) does not apply. Schedule 1 relates to new regulation 8A (see **item [3]** above).