

EXPLANATORY STATEMENT

Select Legislative Instrument 2008 No. 98

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

Child Support Legislation Amendment (Reform of the Child Support Scheme – New Formula and Other Measures) Act 2006

Child Support Reform (New Formula and Other Measures) Amendment Regulations 2008 (No. 1)

The *Child Support Legislation Amendment (Reform of the Child Support Scheme - New Formula and Other Measures) Act 2006* (the Act) will, in part, amend the *Child Support (Assessment) Act 1989* (the Assessment Act) to provide, from 1 July 2008, a new formula for assessing the level of parents' child support liabilities for their children.

Section 6 of the Act provides that the Governor-General may make regulations prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments or repeals made by the Act.

The *Child Support Reform (New Formula and Other Measures) Regulations 2007* (the Principal Regulations) clarify the way in which an administrative assessment is made after 1 July 2008 where a determination or court order varying the existing formula-based assessment is in force and will continue in force after 30 June 2008. In some cases, the administrative assessment will be fixed at the rate applying on 30 June 2008. The Regulations amend the Principal Regulations to adjust the indexation applied to such an annual rate

Details of the Regulations are set out in the Attachment.

The Regulations commence on the day after they are registered.

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 altering existing arrangements.

Regulatory Impact Analysis

The amendments to the Principal Regulations are of a minor or machinery nature and do not substantially alter the existing arrangements.

ATTACHMENT

Details of the *Child Support Reform (New Formula and Other Measures) Amendment Regulations 2008 (No. 1)*

Regulation 1 – Name of Regulations

This regulation provides that the title of the Regulations is the *Child Support Reform (New Formula and Other Measures) Amendment Regulations 2008 (No. 1)*.

Regulation 2 – Commencement

This regulation provides for the Regulations to commence on the day after they are registered, to allow time for parents to be advised prior to 1 July 2008 of their changed annual rate of child support.

Regulation 3 – Amendment of the *Child Support Reform (New Formula and Other Measures) Regulations 2007*

This regulation provides that the *Child Support Reform (New Formula and Other Measures) Regulations 2007* (the Principal Regulations) are amended as set out in Schedule 1.

Schedule 1 – Amendments

Item [1] replaces subregulation 19(3) with new subregulations 19(3), (4), (5) and (6). Subregulation 19(3) provides for the indexation of existing determinations resulting from the application of subregulation 19(2), in accordance with section 153A of the *Child Support (Assessment) Act 1989* (the Assessment Act) from 1 July 2008. The new subregulation 19(3) generally duplicates the effect of subsection 153A(2) of the Assessment Act, except that the base indexation quarter is the index number for the March quarter of 2008, rather than the 2005 September quarter, and indexation will commence on 1 July 2009.

Additional subregulation 19(4) provides the following definitions for the purposes of subregulation 19(3).

Base March quarter index number means the index number for the March quarter of 2008, rather than the September quarter of 2005, because indexation will occur on 1 July annually, from 1 July 2009 and the March number is the most recently published quarter prior to 1 July.

Highest March quarter index number is defined in terms duplicating the definition of ‘highest September quarter index number’ in subsection 153A(2) of the Assessment Act, except that March is substituted for September.

Index number is defined in terms duplicating the definition of ‘index number’ in subsection 153A(2) of the Assessment Act.

Additional subregulation 19(5) is to the same effect as subsection 153A(3) of the Assessment Act, with minor wording changes for clarity. Subsection 153A(3) requires the Registrar to disregard index numbers published by the Australian Statistician for a relevant quarter after the Registrar has indexed an amount by reference to that quarter.

Additional subregulation 19(6) is to the same effect as subsection 153A(4) of the Assessment Act, with minor wording changes for clarity. Subsection 153A(4) provides that if at any time the Australian Statistician changes the reference base for the Consumer Price Index, regard is to be had, for the purposes of indexing amounts after the change takes place, only to index numbers published in terms of the new reference base.

Item [2] substitutes subregulation 26(3). Subregulation 26(3) currently indexes under section 153A of the Assessment Act, the amount resulting from the application of subregulation 26(2). New subregulation 26(3) substitutes indexation in accordance with subregulations 19(3) to (6) discussed above. This corrects the same problems mentioned above, with respect to the base year of indexation (2008 rather than 2005), the base quarter (March rather than September) and the date indexation commences (1 July 2009 rather than 1 July 2008).