



Child Support Reform (New Formula and Other Measures) Regulations 2018

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 15 March 2018

Peter Cosgrove
Governor-General

By His Excellency's Command

Dan Tehan
Minister for Social Services

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Part 1—Preliminary

1 Name

This instrument is the *Child Support Reform (New Formula and Other Measures) Regulations 2018*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	20 March 2018

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

5 Definitions

In this instrument:

Act means the *Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006*.

amended Assessment Act means the *Child Support (Assessment) Act 1989* as amended by the Act and the Consolidation Act on, or immediately after, 1 July 2008.

Section 5

amended Registration and Collection Act means the Registration and Collection Act as amended by the Act and the Consolidation Act on, or immediately after, 1 July 2008.

applicable formula, for a child, means the formula that would be applicable to working out the annual rate of child support payable for the child under Part 5 of the unamended Assessment Act, as amended by the Act and the Consolidation Act, as if the amendments provided by those Acts to come into operation on 1 July 2008, or immediately after that day, had come into operation on, or immediately after, the commencement of the old regulations.

carer means a carer entitled to child support.

carer entitled to child support has the same meaning as in the amended Assessment Act.

child support has the same meaning as in the amended Assessment Act.

child support agreement has the same meaning as in the unamended Assessment Act.

Consolidation Act means the *Families, Community Services and Indigenous Affairs Legislation Amendment (Child Support Reform Consolidation and Other Measures) Act 2007*.

liable parent has the same meaning as in the amended Assessment Act.

old regulations means the *Child Support Reform (New Formula and Other Measures) Regulations 2007*.

payee has the same meaning as in the amended Registration and Collection Act.

payer has the same meaning as in the amended Registration and Collection Act.

Registrar has the same meaning as in the amended Assessment Act.

Registration and Collection Act means the *Child Support (Registration and Collection) Act 1988*.

transitional administrative assessment means an administrative assessment made, or amended, by the Registrar under subregulation 7(1) of the old regulations that was in force during the transition period.

Note: Subregulation 7(1) of the old regulations was repealed by the *Tribunal Legislation Amendment (Amalgamation) Regulation 2015*.

transitional agreement: see section 10.

transitional departure determination means a departure determination made by the Registrar under subregulation 9(1) of the old regulations that was in force during the transition period.

Note: Subregulation 9(1) of the old regulations was repealed by the *Tribunal Legislation Amendment (Amalgamation) Regulation 2015*.

transition period means the period beginning on the commencement of the old regulations and ending at the end of 30 June 2008.

Note: The old regulations commenced on 1 January 2008.

unamended Assessment Act means the *Child Support (Assessment) Act 1989* as in force during the transition period.

Part 2—Scale of expenses

6 Scale of expenses

For the purposes of subsection 4(2) of the Act, the prescribed scale of expenses to be allowed to a person (other than a person who is a payer, payee or a personal representative of a payer or payee) required to attend under subsection 4(1) of the Act are as follows:

- (a) the amount provided for in the High Court Rules (as in force at the commencement of this section) for expenses of witnesses;
- (b) if the person is required to be absent overnight from his or her usual place of residence—such amount as is reasonable for meals and accommodation.

Part 3—Corresponding rights and obligations under determinations made before 1 July 2008

7 Scope of this Part

This Part applies if the Registrar, using the applicable formula, makes or amends a transitional administrative assessment of child support that is subject to a transitional departure determination.

8 Corresponding rights and obligations for departure determinations

A liable parent, or a carer, to whom a transitional departure determination mentioned in column 1 of an item in the following table applies has the same rights and obligations as if the transitional departure determination were a departure determination made under a provision of the amended Assessment Act mentioned in column 2 of the item.

Transitional departure determinations		
Item	Column 1 If the transitional departure determination was made under the following provisions of the unamended Assessment Act ...	Column 2 after the transition period the determination is taken to be a determination made under the following provisions of the amended Assessment Act ...
1	paragraph 98S(1)(a) (varying the rate of child support payable by the liable parent)	paragraph 98S(1)(a) (varying the annual rate of child support payable).
2	paragraph 98S(1)(b) (varying the adjusted income amount of the liable parent)	paragraph 98S(1)(c) (varying a parent's child support income).
3	paragraph 98S(1)(b) or (d) (varying the child support income amount of the liable parent or the carer entitled to child support)	paragraph 98S(1)(g) (varying a parent's adjusted taxable income).
4	paragraph 98S(1)(b) (varying the exempted income amount of the liable parent)	paragraph 98S(1)(i) (varying a parent's self-support amount).

9 Determinations with no corresponding rights and obligations

- (1) This section applies to a transitional departure determination under any of the following provisions of the unamended Assessment Act:
 - (a) paragraph 98S(1)(b) (varying the child support percentage);
 - (b) paragraph 98S(1)(d) (varying the disregarded income amount of the carer);
 - (c) paragraph 98S(1)(g) (varying a factor ascertained under paragraph 54(1)(b) of the unamended Assessment Act).
- (2) The rights and obligations under the transitional departure determination has effect after 30 June 2008 as if the determination were a departure determination under paragraph 98S(1)(a) of the amended Assessment Act varying the annual rate of child support to the rate payable on 30 June 2008.

Section 9

- (3) An amount specified in a transitional departure determination to which this section applies is to be indexed annually on 1 July, starting on 1 July 2009, using the following steps:

- Step 1: Divide the highest March quarter index number by the base March quarter index number.
- Step 2: Multiply the amount specified in the existing determination by the number worked out in step 1.

- (4) In this section:

base March quarter index number means the index number for the March quarter of 2008.

highest March quarter index number means the highest index number for a March quarter since the base March quarter index number (and including the base March quarter index number).

index number means, for a quarter, the All Groups Consumer Price Index number that is the weighted average of the 8 capital cities and is published by the Australian Statistician for that quarter.

- (5) Subject to subsection (6), if at any time before or after the commencement of this section:
- (a) the Australian Statistician has published or publishes an index number in respect of a quarter; and
 - (b) that index number is in substitution for an index number previously published by the Australian Statistician in respect of that quarter;
- disregard the publication of the later index number for the purposes of this section.
- (6) If, at any time before or after the commencement of this section, the Australian Statistician has changed or changes the index reference period for the Consumer Price Index, then, for the purposes of applying this section after the change took place or takes place, have regard only to index numbers published in terms of the new index reference period.

Part 4—Transitional matters for child support agreements made before 1 July 2008

10 Scope of this Part

This Part applies to a child support agreement that has been reviewed and determined to be binding by the Registrar under subitems 74(1) and (2) of Schedule 5 to the Act during the transition period. The child support agreement is a *transitional agreement*.

11 Corresponding rights and obligations for transitional agreements

A liable parent, or carer, who is party to a transitional agreement mentioned in column 1 of an item in the following table has the same rights and obligations as if the child support agreement were made under the amended Assessment Act as described in column 2 of the item.

Transitional agreements		
Item	Column 1 If the transitional agreement ...	Column 2 the transitional agreement is taken to be a child support agreement made under the amended Assessment Act that ...
1	varies the rate of child support payable	varies the annual rate of child support payable.
2	varies the adjusted income amount	varies a parent's child support income.
3	varies the child support income amount	varies a parent's adjusted taxable income.
4	varies the exempted income amount	varies a parent's self-support amount.

Section 12

Part 5—Transitional matters for court orders made before 1 July 2008

12 Scope of this Part

- (1) This Part is made for the purposes of item 1 of Schedule 9 to the Act.
- (2) This Part applies to a transitional administrative assessment if:
 - (a) an order has been made by a court in relation to the assessment under section 118 of the unamended Assessment Act during the transition period; and
 - (b) the Registrar, using the applicable formula, makes or amends the assessment to give effect to the order.

Note: A liable parent or carer may apply to a court under section 116 of the unamended Assessment Act in relation to the Registrar's notice of an administrative assessment of child support under the applicable formula: see item 1(6) of Schedule 9 to the Act.

13 Corresponding rights and obligations for court orders

If an administrative assessment is to be made or amended as a result of an order by a court under a provision of the unamended Assessment Act mentioned in an item in column 1 of the following table, the Registrar must ensure, as far as practicable, that the made or amended assessment confers on the liable parent or carer the same rights and obligations that would be conferred if the order had been made under a provision of the amended Assessment Act mentioned in column 2 of the item.

Court orders		
Item	Column 1 Provision of the unamended Assessment Act	Column 2 Provision of the amended Assessment Act
1	paragraph 118(1)(a) (varying the rate of child support payable)	paragraph 118(1)(a) (varying the annual rate of child support payable)
2	paragraph 118(1)(b) (varying the adjusted income amount)	paragraph 118(1)(c) (varying a parent's child support income)
3	paragraph 118(1)(b) or (d) (varying the child support income amount)	paragraph 118(1)(g) (varying a parent's adjusted taxable income)
4	paragraph 118(1)(b) (varying the exempted income amount)	paragraph 118(1)(i) (varying a parent's self-support amount)

14 Court orders with no corresponding rights and obligations

- (1) This section applies to a transitional administrative assessment that is to be made or amended as a result of an order by a court made under the unamended Assessment Act that:
 - (a) varies the child support percentage (paragraph 118(1)(b) of that Act); or

- (b) varies the disregarded income amount of the carer (paragraph 118(1)(d) of that Act); or
 - (c) varies a factor ascertained under paragraph 54(1)(b) of that Act (paragraph 118(1)(g) of that Act).
- (2) The Registrar must ensure, as far as practicable, that the assessment confers on the liable parent or carer bound by the order the same rights and obligations that would have been conferred if there were an order under paragraph 118(1)(a) of the amended Assessment Act varying the annual rate of child support to the rate payable on 30 June 2008.
- (3) Subsections 9(3) to (6) of this instrument apply to the assessment as if the review of the assessment by the Registrar were a transitional departure determination to which those subsections apply.

Schedule 1—Repeals

Child Support Reform (New Formula and Other Measures) Regulations 2007

1 The whole of the instrument

Repeal the instrument.