

1998-1999-2000

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Child Support Legislation Amendment
Bill (No. 2) 2000**

No. , 2000

(Family and Community Services)

**A Bill for an Act to amend legislation relating to
child support, and for related purposes**

ISBN: 0642 451346

Contents

1	Short title.....	1
2	Commencement.....	1
3	Schedule(s).....	3
Schedule 1—Lower child support percentages for children with whom liable parent has 10% to 30% contact		4
	<i>Child Support (Assessment) Act 1989</i>	4
Schedule 2—Lower cap on income subject to child support formula assessment		16
	<i>Child Support (Assessment) Act 1989</i>	16
Schedule 3—Income earned for the benefit of resident children		17
	<i>Child Support (Assessment) Act 1989</i>	17
Schedule 4—Increase in deductible child maintenance expenditure for family tax benefit and child care benefit		20
	<i>A New Tax System (Family Assistance) Act 1999</i>	20
Schedule 5—Administrative arrangements		21
	<i>Child Support (Assessment) Act 1989</i>	21
	<i>Child Support (Registration and Collection) Act 1988</i>	26
	<i>Income Tax Assessment Act 1936</i>	31
	<i>Social Security (Administration) Act 1999</i>	32
	<i>Taxation Administration Act 1953</i>	32
Schedule 6—Departure prohibition orders		33
Part 1—Departure prohibition orders		33
	<i>Child Support (Registration and Collection) Act 1988</i>	33
Part 2—Amendments consequential on changed administrative law arrangements		44
	<i>Child Support (Registration and Collection) Act 1988</i>	44
Schedule 7—Minimum rate of child support		45
	<i>Child Support (Assessment) Act 1989</i>	45

Schedule 8—Supporting documents	46
<i>Child Support (Assessment) Act 1989</i>	46
Schedule 9—Definition of eligible carer	47
<i>Child Support (Assessment) Act 1989</i>	47
Schedule 10—Technical amendments	49
<i>Child Support (Assessment) Act 1989</i>	49
<i>Child Support (Registration and Collection) Act 1988</i>	51

1 **A Bill for an Act to amend legislation relating to**
2 **child support, and for related purposes**

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act may be cited as the *Child Support Legislation Amendment*
6 *Act (No. 2) 2000*.

7 **2 Commencement**

- 8 (1) Subject to this section, this Act commences on the day on which it
9 receives the Royal Assent.
- 10 (2) Schedules 1 and 4 commence on whichever of the following days
11 applies:

Schedule 1 Lower child support percentages for children with whom liable parent has 10% to 30% contact

- 1 (a) if this Act receives the Royal Assent on or before 1 July
2 2001—on 1 July 2001;
3 (b) otherwise—on a day or days to be fixed by Proclamation.
- 4 (3) Schedules 2 and 3 commence on whichever of the following days
5 applies:
6 (a) if this Act receives the Royal Assent on or before 1 January
7 2001—on 1 January 2001;
8 (b) otherwise—on a day or days to be fixed by Proclamation.
- 9 (4) Part 2 of Schedule 6 commences at whichever of the following
10 times applies:
11 (a) if Parts 4 to 10 of the Act that establishes the Administrative
12 Review Tribunal commence before, or at the same time as,
13 Part 1 of Schedule 6 to this Act—immediately after the
14 commencement of Part 1 of Schedule 6 to this Act;
15 (b) if Parts 4 to 10 of the Act that establishes the Administrative
16 Review Tribunal commence after Part 1 of Schedule 6 to this
17 Act—the time when Parts 4 to 10 of the Act that establishes
18 the Administrative Review Tribunal commence.
- 19 Note: The short title of the Act that establishes the Administrative Review
20 Tribunal is either the *Administrative Review Tribunal Act 2000* or the
21 *Administrative Review Tribunal Act 2001*.
- 22 (5) Item 1 of Schedule 10 is taken to have commenced immediately
23 after the commencement of section 124 of the *Family Court Act*
24 *1997* of Western Australia.
- 25 (6) Item 2 of Schedule 10 is taken to have commenced immediately
26 after the commencement of Schedule 16 to the *Child Support*
27 *Legislation Amendment Act 1998*.
- 28 (7) Items 3, 4 and 5 of Schedule 10 are taken to have commenced
29 immediately after the commencement of item 5 of Schedule 4 to
30 the *A New Tax System (Family Assistance) (Consequential and*
31 *Related Measures) Act (No. 2) 1999*.
- 32 (8) Items 6, 15, 16, 17 and 18 of Schedule 10 are taken to have
33 commenced immediately after the commencement of Schedule 16
34 to the *Child Support Legislation Amendment Act 1998*.
-

- 1 (9) Item 23 of Schedule 10 is taken to have commenced immediately
2 after the commencement of Schedule 21 to the *Child Support*
3 *Legislation Amendment Act 1998*.
- 4 (10) Items 29, 30, 31, 32, 33 and 34 of Schedule 10 are taken to have
5 commenced immediately after the commencement of Schedule 17
6 to the *Child Support Legislation Amendment Act 1998*.
- 7 (11) If a provision of this Act does not commence under
8 paragraph (2)(b) or (3)(b) within the period of 6 months beginning
9 on the day on which this Act receives the Royal Assent, it
10 commences on the first day after the end of that period.

11 **3 Schedule(s)**

12 Subject to section 2, each Act that is specified in a Schedule to this
13 Act is amended or repealed as set out in the applicable items in the
14 Schedule concerned, and any other item in a Schedule to this Act
15 has effect according to its terms.

1
2 **Schedule 1—Lower child support percentages**
3 **for children with whom liable parent**
4 **has 10% to 30% contact**
5

6 *Child Support (Assessment) Act 1989*

7 **1 After section 8**

8 Insert:

9 **8AA Interpretation—moderate and intermediate contact**

10 (1) For the purposes of this Act, if a parent of a child:

11 (a) has care of the child for at least 10%, but less than 20%, of
12 the nights in the 12 months immediately after the start of a
13 child support period; or

14 (b) the parent and each eligible carer of the child agree that the
15 parent should be taken to have the amount of care of the child
16 mentioned in paragraph (a);

17 then the parent is taken to have care of the child for 15% of those
18 nights and is referred to in this Act as having *moderate contact*
19 with the child.

20 (2) For the purposes of this Act, if a parent of a child:

21 (a) has care of the child for at least 20%, but less than 30%, of
22 the nights in the 12 months immediately after the start of a
23 child support period; or

24 (b) the parent and each eligible carer of the child agree that the
25 parent should be taken to have the amount of care of the child
26 mentioned in paragraph (a);

27 then the parent is taken to have care of the child for 25% of those
28 nights and is referred to in this Act as having *intermediate contact*
29 with the child.

30 (3) This section is subject to section 8A.

31 **2 Paragraph 8A(2)(b)**

1 Omit all the words from and including “out”, substitute:

2 out either:

- 3 (i) on the basis of the care (if any) that the person actually
4 has of the child; or
5 (ii) if subsection (2A) applies to the person—on the basis of
6 the amount of care provided for in the court order or
7 registered parenting plan; and

8 **3 Paragraph 8A(2)(d)**

9 Omit “and (5)”, substitute “(5), (5A), (5B) and (6A)”.

10 **4 After subsection 8A(2)**

11 Insert:

- 12 (2A) For the purposes of subparagraph (2)(b)(ii), this subsection applies
13 to a person if:
14 (a) the person is a parent of the child; and
15 (b) had the court order or registered parenting plan mentioned in
16 that subparagraph not been contravened, the person would be
17 taken to have moderate or intermediate contact with the child
18 under subsection (5A) or (5B).

19 **5 After subsection 8A(5)**

20 Insert:

- 21 (5A) If a parent has care of the child for at least 10%, but less than 20%,
22 of the nights in the 12 months immediately after the start of the
23 child support period concerned, he or she is taken to have care of
24 the child for 15% of the nights in the child support period, and is
25 referred to in this Act as having *moderate contact* with the child.
- 26 (5B) If the parent has care of the child for at least 20%, but less than
27 30%, of the nights in the 12 months immediately after the start of
28 the child support period concerned, he or she is taken to have care
29 of the child for 25% of the nights in the child support period, and is
30 referred to in this Act as having *intermediate contact* with the
31 child.

32 **6 After subsection 8A(6)**

33 Insert:

- 1 (6A) If, after applying this section:
2 (a) the parent of a child would (apart from this subsection) be
3 taken to have moderate or intermediate contact with the child
4 for a child support period; and
5 (b) the amount of care of the child that a person or persons
6 would be taken to have for the child support period
7 concerned would not be any of the following:
8 (i) one person is the sole or principal provider of care;
9 (ii) two people share care of the child;
10 (iii) one person has major contact with the child and another
11 person has substantial contact with the child;
12 then the parent is taken for the purposes of this Act not to have care
13 of the child for any of the days in the child support period.

14 **7 After section 46**

15 Insert:

16 **Subdivision DA—Children with whom liable parent has**
17 **moderate or intermediate contact**

18 **46A Cases to which Subdivision applies**

19 This Subdivision applies in relation to a liable parent by whom
20 child support is payable, in respect of a child or children, to a carer
21 entitled to child support (in this Subdivision called the *entitled*
22 *carer*) if:

- 23 (a) the entitled carer is the sole or principal provider of ongoing
24 daily care for the child or children; and
25 (b) the liable parent is not an eligible carer of any child eligible
26 for administrative assessment of whom both the liable parent
27 and the entitled carer are parents; and
28 (c) the liable parent has moderate or intermediate contact with
29 the child or one or more of the children.

30 **46B Child support percentage**

- 31 (1) The liable parent's child support percentage is the percentage
32 ascertained using the following table:
33

Modified table of child support percentages		
Item	Number of children for whom the person is a liable parent	Child support percentage
1	0.75	15
2	0.85	16
3	1.5	24
4	1.60 - 1.70	25
5	1.75 - 1.85	26
6	2.25 - 2.40	29
7	2.45 - 2.60	30
8	2.65 - 2.85	31
9	2.90 - 3.20	32
10	3.25 - 3.70	33
11	3.75 - 4.20	34
12	4.25 - 4.70	35
13	4.75 - 5.0 or more	36

- 1 (2) For the purposes of subsection (1), each child with whom the liable
2 parent has moderate or intermediate contact is attributed a number
3 as follows:
4 (a) if the parent has moderate contact with the child—0.85;
5 (b) if the parent has intermediate contact with the child—0.75.

6 **8 Paragraph 48(1)(e)**

- 7 Repeal the paragraph (including the table), substitute:
8 (e) the child support percentage of either of the relevant parents
9 is the percentage ascertained using the following table,
10 attributing a number to each child as follows:
11 (i) for each child for whom a parent is the sole or principal
12 provider of ongoing daily care—the other parent is
13 taken to be liable for 1.00 children, or, if the other
14 parent has moderate or intermediate contact with the
15 child, for 0.85 children (moderate contact) or 0.75
16 children (intermediate contact);

Schedule 1 Lower child support percentages for children with whom liable parent has 10% to 30% contact

- 1 (ii) for each child with whom a parent has major contact—
 2 the other parent is taken to be liable for 0.65 children;
 3 (iii) for each child with whom a parent has substantial
 4 contact—the other parent is taken to be liable for 0.35
 5 children;
 6 (iv) for each shared care child—each parent is taken to be
 7 liable for 0.5 children:
 8

Modified table of child support percentages		
Item	Number of children for whom either of the relevant parents is a liable parent in relation to the other	Child support percentage
1	Less than 0.35	Not applicable
2	0.35	8
3	0.50	12
4	0.65 - 0.70	14
5	0.75	15
6	0.85	16
7	1.00	18
8	1.05 - 1.10	19
9	1.15 - 1.20	20
10	1.25 - 1.35	22
11	1.40 - 1.45	23
12	1.50 - 1.55	24
13	1.60 - 1.70	25
14	1.75 - 1.90	26
15	1.95 - 2.05	27
16	2.10 - 2.20	28
17	2.25 - 2.40	29
18	2.45 - 2.60	30
19	2.65 - 2.85	31
20	2.90 - 3.20	32
21	3.25 - 3.70	33

Modified table of child support percentages		
Item	Number of children for whom either of the relevant parents is a liable parent in relation to the other	Child support percentage
22	3.75 - 4.20	34
23	4.25 - 4.70	35
24	4.75 - 5.0 or more	36

1 **9 Section 51**

2 Omit all the words after “extent”, substitute “that they are applicable,
3 Subdivision C of this Division (which deals with liable parents with
4 high child support income) and Subdivision DA of this Division (which
5 deals with moderate and intermediate contact) are to be applied to each
6 of the relevant parents in turn, but with the modification made by
7 section 52.”.

8 **10 Paragraph 54(1)(b) (definition of *number of children in***
9 ***carer’s care*)**

10 Omit all the words after “child support” (first occurring), substitute:
11 with a number attributed to each child as follows:

- 12 (i) for each child for whom the carer entitled to child
13 support is the sole or principal provider of ongoing daily
14 care—the liable parent is taken to be liable for 1.00
15 child;
- 16 (ii) for each child with whom the carer entitled to child
17 support has major contact—the liable parent is taken to
18 be liable for 0.65 children;
- 19 (iii) for each child with whom the carer entitled to child
20 support has substantial contact—the liable parent is
21 taken to be liable for 0.35 children;
- 22 (iv) for each shared care child of the liable parent and the
23 carer entitled to child support—the liable parent is taken
24 to be liable for 0.5 children;
- 25 multiplied by 0.85 if the liable parent has moderate contact
26 with the child, or by 0.75 if the liable parent has intermediate
27 contact with the child;

Schedule 1 Lower child support percentages for children with whom liable parent has 10% to 30% contact

1 **11 Paragraph 54(1)(b) (definition of *total number of children*)**

2 Repeal the definition, substitute:

3 *total number of children* means the sum of the number of children
4 in carer's care for each carer entitled to child support in relation to
5 whom the liable parent is a liable parent; and

6 **12 Paragraph 54(1)(c) (table, including the note at the end of
7 the table)**

8 Repeal the table and note, substitute:

9

Modified table of child support percentages		
Item	Total number of children	Child support percentage
1	Less than 0.25	Not applicable
2	0.25 - 0.29	3
3	0.30 - 0.34	5
4	0.35 - 0.39	8
5	0.40 - 0.44	10
6	0.45 - 0.49	11
7	0.50 - 0.54	12
8	0.55 - 0.60	13
9	0.61 - 0.70	14
10	0.71 - 0.80	15
11	0.81 - 0.89	16
12	0.90 - 0.99	17
13	1.00 - 1.04	18
14	1.05 - 1.14	19
15	1.15 - 1.20	20
16	1.21 - 1.24	21
17	1.25 - 1.35	22
18	1.36 - 1.45	23
19	1.46 - 1.55	24
20	1.56 - 1.70	25
21	1.71 - 1.90	26

Modified table of child support percentages		
Item	Total number of children	Child support percentage
22	1.91 - 2.05	27
23	2.06 - 2.20	28
24	2.21 - 2.40	29
25	2.41 - 2.60	30
26	2.61 - 2.85	31
27	2.86 - 3.20	32
28	3.21 - 3.70	33
29	3.71 - 4.20	34
30	4.21 - 4.70	35
31	4.71 - 5.00 or more	36

1 **13 Subsection 54(2)**

2 Omit “, rounding the second decimal place to either 0 or 5”.

3 **14 At the end of subsection 54(2) (before the note)**

4 Add:

5 **Example 3: application of basic formula where liable parent has a**
6 **liability to 2 carers and contact with some of the children**

7 *Facts:* The assessment is being made for a child support period
8 starting on 1 September 2001.

9 Michael has 3 children, 2 with Laura and 1 with Susan.
10 Michael is liable to Laura for 2 children, but shares the daily
11 care of his 14 year old son with her substantially equally, and
12 care for his 12 year old daughter for 40 nights during the first
13 12 months of the child support period. Michael’s care of his
14 daughter constitutes moderate contact.

15 Susan has sole daily care of her son.

16 Michael’s taxable income for the 2000-2001 year of income
17 (which is the last relevant year of income for the child support
18 period) is \$41,230. Laura’s taxable income for that year of

Schedule 1 Lower child support percentages for children with whom liable parent has 10% to 30% contact

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

income was \$29,500 but Susan's taxable income for that year of income is so low that Subdivision D of Division 1 does not affect the assessment of child support payable to Susan.

Assume that the relevant rates under the *Social Security Act 1991* on 1 January 2001 are such that Michael's exempted income amount worked out under section 39 for the period is \$11,842 and Laura's exempted income amount worked out under that section for the period is \$24,909.

Step 1. Calculate the child support percentage in relation to each carer.

The total number of children is calculated as follows: Laura has her son (0.5 of a child) and her daughter, in relation to whom Michael exercises moderate contact:

$$1 \times 0.85 = 0.85$$

Susan has 1 child. The total number of children is 2.35:

$$0.5 + 0.85 + 1$$

The child support percentage for a total of 2.35 children is 29%.

In relation to Laura, Michael's child support percentage is:

$$\frac{\text{Number of children in Laura's care}}{\text{Total number of children}} \times 29\% : \frac{1.35}{2.35} \times 29\% = 16.66\%$$

Susan has 1 child. Therefore, in relation to Susan, Michael's child support percentage is:

$$\frac{\text{Number of children in Susan's care}}{\text{Total number of children}} \times 29\% : \frac{1.00}{2.35} \times 29\% = 12.34\%$$

1	<i>Step 2. Do an assessment for Michael to pay Susan using the child</i>
2	<i>support percentage calculated in Step 1.</i>
3	<i>For Michael to pay Susan:</i>
4	Michael's taxable income for 2000-2001 year of income: \$41,230
5	Michael's child support income amount: \$41,230
6	Less exempted income amount: \$11,842
7	Michael's adjusted income amount: \$29,388
8	Multiply by child support percentage: 12.34%
9	Michael's child support annual rate for the child support period starting
10	on 1 September 2001: \$3,626
11	<i>Step 3. Do assessment for Michael and Laura as if they were liable to</i>
12	<i>each other (using the Division 1 basic formula with</i>
13	<i>modification) (section 48).</i>
14	<i>For Michael to pay Laura:</i>
15	Michael's taxable income for 2000-2001 year of income: \$41,230
16	Michael's child support income amount: \$41,230
17	Less exempted income amount: \$11,842
18	Michael's adjusted income amount: \$29,388
19	Multiply by child support percentage: 16.66%
20	Michael's child support annual rate for the child support period starting
21	on 1 September 2001: \$4,896
22	<i>For Laura to pay Michael:</i>
23	Laura's taxable income for 2000-2001 year of income: \$29,500
24	Laura's child support income amount: \$29,500

Schedule 1 Lower child support percentages for children with whom liable parent has 10% to 30% contact

1	Less exempted income amount:	\$24,909
2	Laura's adjusted income amount:	\$4,591
3	Multiply by child support percentage:	12%
4	Laura's child support annual rate for the child support period starting on	
5	1 September 2000:	\$551
6	<i>Step 4. Reduce the annual rates payable by Michael and Laura</i>	
7	<i>(section 49).</i>	
8	Michael owes Laura \$4,896 a year. Laura owes Michael \$551 a	
9	year. Therefore the annual rate payable by Michael to Laura is	
10	\$4,345:	
11	\$4,896 – \$551	
12	The annual rate payable by Laura to Michael is reduced to 0.	

15 Subsection 54A(1) (note 2)

Repeal the note, substitute:

Note 2: If the carer is the sole or principal provider of care for the child or children, Division 1 or Subdivision DA of Division 2 will apply, rather than this Subdivision.

16 Paragraph 54B(1)(f)

Omit all the words from and including “percentage” (first occurring), substitute:

percentage of the liable parent is the percentage ascertained using the following table, with a number attributed to each child as follows:

- (i) for each child for whom the carer is the sole or principal provider of ongoing daily care—the liable parent is taken to be liable for 1.00 child;
- (ii) for each child with whom the carer has major contact—the liable parent is taken to be liable for 0.65 children;

- 1 (iii) for each child with whom the carer has substantial
2 contact—the liable parent is taken to be liable for 0.35
3 children;
4 (iv) for each shared care child of the liable parent and the
5 carer—the liable parent is taken to be liable for 0.5
6 children.

7 **17 Paragraph 74A(b)**

8 Repeal the paragraph, substitute:

- 9 (b) the Registrar is notified, or otherwise becomes aware, that:
10 (i) the basis on which a person is an eligible carer of the
11 child has changed from one of the categories set out in
12 the definition of *eligible carer* (in section 5) to another
13 of those categories; or
14 (ii) a liable parent of the child commences or ceases to have
15 moderate or intermediate contact with the child; and

1
2
3
4

Schedule 2—Lower cap on income subject to child support formula assessment

5

Child Support (Assessment) Act 1989

6

1 Section 42

7

Repeal the section, substitute:

8

42 Cap on child support if child support income amount exceeds 2.5 times yearly equivalent of EAWWE amount

9

10

If a liable parent's child support income amount in relation to the days in a child support period exceeds 2.5 times the yearly equivalent of the EAWWE amount for the child support period, the liable parent's adjusted income amount in relation to any day in the child support period is the amount calculated using the formula:

11

12

13

14

15

$$\frac{2.5 \text{ times yearly equivalent of the EAWWE amount}}{\text{Exempted income amount}}$$

16

2 Paragraph 52(2)(b)

17

Omit "relevant AWE", substitute "EAWWE".

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33

Schedule 3—Income earned for the benefit of resident children

Child Support (Assessment) Act 1989

1 After subsection 98S(3)

Insert:

(3A) A determination under this Part varying the child support income amount of a liable parent or a carer entitled to child support must not reduce the child support income amount worked out under Part 5 by more than 30%, to the extent that the reduction is attributable to a ground mentioned in subparagraph 117(2)(c)(iii) or (iv).

2 Paragraph 117(2)(c)

Omit “because of”.

3 Subparagraph 117(2)(c)(i)

Before “the income”, insert “because of”.

4 Subparagraph 117(2)(c)(ii)

Before “any payments”, insert “because of”.

5 At the end of paragraph 117(2)(c)

Add:

- ; or (iii) because an amount (the *additional amount*) of a liable parent’s child support income amount was earned, derived or received by the liable parent for the benefit of a resident child or resident children of the liable parent;
- or
- (iv) because an amount (the *additional amount*) of an entitled carer’s child support income amount was earned, derived or received by the entitled carer for the benefit of a resident child or resident children of the entitled carer.

Note: Section 117A sets out provisions relating to income earned for the benefit of resident children.

1 **6 After section 117**

2 Insert:

3 **117A Provisions relating to income earned for the benefit of resident**
4 **children**

- 5 (1) A child is a *resident child of a liable parent* for the purposes of
6 subparagraph 117(2)(c)(iii) if, and only if:
7 (a) the child normally lives with the liable parent; and
8 (b) the child is aged under 18; and
9 (c) the child is not a member of a couple; and
10 (d) the liable parent:
11 (i) is a parent of the child; or
12 (ii) is, or was, a member of a couple of which the other
13 member is, or was, a parent of the child; and
14 (e) the child is not a child of whom both the liable parent and the
15 entitled carer are the parents.
- 16 (2) A child is a *resident child of an entitled carer* for the purposes of
17 subparagraph 117(2)(c)(iv) if, and only if:
18 (a) the child normally lives with the entitled carer; and
19 (b) the child is aged under 18; and
20 (c) the child is not a member of a couple; and
21 (d) the entitled carer:
22 (i) is a parent of the child; or
23 (ii) is, or was, a member of a couple of which the other
24 member is, or was, a parent of the child; and
25 (e) the child is not a child of whom both the entitled carer and
26 the liable parent are the parents.
- 27 (3) For the purposes of subparagraphs 117(2)(c)(iii) and (iv), an
28 amount is taken not to be an additional amount in relation to a
29 person in the following circumstances:
30 (a) the amount is earned, derived or received in accordance with
31 a pattern of earnings, derivation or receipt that was
32 established:
33 (i) before the resident child became a resident child of the
34 liable parent or the entitled carer; or

- 1 (ii) if the child was a resident child of the liable parent or
2 the entitled carer immediately after the child was born—
3 before the liable parent or the entitled carer could
4 reasonably be expected to have been aware of the
5 pregnancy that resulted in the birth of the child;
6 (b) the amount is earned, derived or received other than in
7 accordance with such a pattern, but the alterations to the
8 pattern are of a kind that it is reasonable to expect would
9 have occurred in the ordinary course of events.

10 **7 After subsection 118(2)**

11 Insert:

- 12 (2A) An order under this section varying the child support income
13 amount of a liable parent or a carer entitled to child support must
14 not reduce the child support income amount worked out under
15 Part 5 by more than 30%, to the extent that the reduction is
16 attributable to a ground mentioned in subparagraph 117(2)(c)(iii)
17 or (iv).

Schedule 4 Increase in deductible child maintenance expenditure for family tax benefit and child care benefit

1
2
3
4
5

Schedule 4—Increase in deductible child maintenance expenditure for family tax benefit and child care benefit

6
7
8

A New Tax System (Family Assistance) Act 1999

1 Subclause 8(1) of Schedule 3

Omit “50%”, substitute “100%”.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

Schedule 5—Administrative arrangements

Child Support (Assessment) Act 1989

1 Paragraph 58(1)(a)

After “Registrar” (first occurring), insert “or the Commissioner”.

2 Paragraph 58(1)(a)

Omit “(whether as Registrar or Commissioner)”.

3 Paragraph 58(1)(b)

Omit “has (whether as Registrar or Commissioner)”, substitute “or the Commissioner has”.

4 Paragraph 58(1A)(a)

After “Registrar” (first occurring), insert “or the Commissioner”.

5 Paragraph 58(1A)(a)

Omit “(whether as Registrar or Commissioner)”.

6 Paragraph 58(1A)(b)

Omit “(whether as Registrar or Commissioner)”, substitute “or the Commissioner”.

7 Section 65

Omit “(whether as Registrar or Commissioner)”.

8 Section 65

Omit “, the *Income Tax Assessment Act 1936*”.

9 Section 65

Omit “the furnishing of any return,”.

10 Subsections 70(1) and (2)

Omit “or a Deputy Registrar”.

11 Paragraph 75(3)(b)

1 Omit “(whether as Registrar or Commissioner)”.

2 **12 Subsection 91A(6)**

3 Omit “of Social Security”.

4 **13 Section 147**

5 Omit “Registrar”, substitute “Secretary”.

6 Note: The heading to section 147 is altered by omitting “**Registrar**” and substituting
7 “**Secretary**”.

8 **14 Subsection 148(1)**

9 Omit “Registrar”, substitute “Secretary”.

10 **15 Subsection 149(1)**

11 Omit all the words from and including “to”, substitute “to an officer or
12 employee of the Department.”.

13 **16 Subsection 150(1) (paragraph (a) of the definition of**
14 ***person to whom this section applies*)**

15 Omit “or a Deputy Registrar”.

16 **17 Subsection 150(1) (paragraph (b) of the definition of**
17 ***person to whom this section applies*)**

18 Omit “of Social Security”.

19 **18 Subsection 150(1) (after paragraph (ba) of the definition of**
20 ***person to whom this section applies*)**

21 Insert:

22 (bb) the Commissioner; or

23 **19 Subsection 150(1) (subparagraph (c)(ii) of the definition of**
24 ***person to whom this section applies*)**

25 Omit “of Social Security”.

26 **20 Subsection 150(1) (at the end of the definition of *person to***
27 ***whom this section applies*)**

28 Add:

1 ; or (g) a person to whom this section applied immediately before the
2 commencement of Schedule 5 to the *Child Support*
3 *Legislation Amendment Act (No. 2) 2000*.

4 **21 Subsection 150(3)**

5 Omit “, a Deputy Registrar,”.

6 **22 Subsection 150(3)**

7 Omit “or a Deputy Registrar,”.

8 **23 Paragraph 150(3)(a)**

9 Omit “to the Department of Social Security”.

10 **24 Paragraph 150(3)(a)**

11 Omit “that”, substitute “the”.

12 **25 Paragraph 150(3)(b)**

13 Omit “of Social Security”.

14 **26 Paragraph 150(3)(c)**

15 Omit “an Act of which the Registrar (whether as Registrar or
16 Commissioner) has the general administration,” substitute “this Act or
17 the *Child Support (Registration and Collection) Act 1988*,”.

18 **27 Paragraph 150(3)(c)**

19 Omit “such an”, substitute “either”.

20 **28 After paragraph 150(3)(c)**

21 Insert:

22 (ca) to a person performing, as a person to whom this section
23 applies, duties under or in relation to an Act of which the
24 Commissioner has the general administration, or under
25 regulations made under such an Act, for the purpose of
26 enabling the person to perform those duties; or

27 **29 Subsection 150(8)**

28 Omit “or a Deputy Registrar”.

29 **30 At the end of Part 8**

1 Add:

2 **150B Registrar's power to request tax file numbers**

- 3 (1) This section applies to a person in Australia if:
- 4 (a) the person has applied for an administrative assessment of
- 5 child support; or
- 6 (b) payment of child support is sought from the person; or
- 7 (c) another person is seeking to pay child support to the person;
- 8 or
- 9 (d) the person is a carer entitled to child support; or
- 10 (e) the person is a liable parent.
- 11 (2) The Registrar may request, but not compel, the person:
- 12 (a) to give the Registrar a written statement of the person's tax
- 13 file number; or
- 14 (b) if the person does not have a tax file number—to apply to the
- 15 Commissioner for a tax file number and to give to the
- 16 Registrar a written statement of the person's tax file number
- 17 after the Commissioner has issued it.

18 **150C Effect of failure by person to satisfy request for person's tax**

19 **file number**

- 20 (1) If the Registrar makes a request under subsection 150B(2) of a
- 21 person, and the person does not, within 28 days of the making of
- 22 the request:
- 23 (a) comply with the request; or
- 24 (b) give to the Registrar a statement of a kind mentioned in
- 25 subsection (2) or (3) of this section;
- 26 section 58 applies to the person as if the request under subsection
- 27 150B(2) were a requirement with which the person has refused or
- 28 failed to comply.
- 29 Note: Section 58 provides that where the Registrar has required a person to
- 30 give information, and the person has refused or failed to comply with
- 31 the requirement, the Registrar may act on the basis that the person's
- 32 taxable income is an amount worked out under section 58.
- 33 (2) The person may give to the Registrar a statement that the person:
- 34 (a) has a tax file number but does not know what it is; and

- 1 (b) has asked the Commissioner to inform the person of the
 2 person’s tax file number; and
 3 (c) authorises the Commissioner to tell the Registrar:
 4 (i) whether the person has a tax file number; and
 5 (ii) if the person has a tax file number—that number.
- 6 (3) The person may give to the Registrar a statement that the person:
 7 (a) has an application for a tax file number pending; and
 8 (b) authorises the Commissioner to tell the Registrar:
 9 (i) if a tax file number is issued to the person—that
 10 number; or
 11 (ii) if the application is refused—that the application has
 12 been refused; or
 13 (iii) if the application is withdrawn—that the application has
 14 been withdrawn.

15 **150D Registrar may require Commissioner to provide information**

- 16 (1) The Registrar may require the Commissioner to provide the
 17 Registrar with information about people, including tax file
 18 numbers, being information that is in the possession of the
 19 Commissioner.
- 20 (2) Information provided to the Registrar under a requirement made
 21 under subsection (1) may be used only for the following purposes:
 22 (a) to ascertain whether a person may apply for administrative
 23 assessment of child support;
 24 (b) to make or amend an administrative assessment of child
 25 support;
 26 (c) to ascertain the happening of a child support terminating
 27 event;
 28 (d) to identify a person for purposes related to a purpose
 29 mentioned in paragraph (a), (b) or (c).

30 **31 Subsection 151A(7)**

31 Omit “of Social Security”.

32 **32 Subsection 157(1)**

33 Omit “or a Deputy Registrar,”.

1 **33 Paragraph 157(1)(b)**

2 Omit “or a Deputy Registrar”.

3 **34 Subsection 157(2)**

4 Omit “or a Deputy Registrar”.

5 **35 Section 158**

6 Omit “or Deputy Registrar”.

7 ***Child Support (Registration and Collection) Act 1988***

8 **36 Subsection 4(1) (definition of *Deputy Registrar*)**

9 Repeal the definition.

10 **37 Subsection 4(1) (definition of *Secretary*)**

11 Omit “of Social Security”.

12 **38 Subsection 10(2)**

13 Repeal the subsection, substitute:

14 (2) The Child Support Registrar is:

15 (a) the person who holds, or is acting in, the position known as
16 the General Manager of the Child Support Agency; or

17 (b) if there is no such position—an SES employee, or acting SES
18 employee, who holds, or is acting in, a position specified by
19 the Secretary by written instrument for the purposes of this
20 paragraph.

21 **39 Section 11**

22 Omit “Registrar”, substitute “Secretary”.

23 Note: The heading to section 11 is altered by omitting “**Registrar**” and substituting
24 “**Secretary**”.

25 **40 Section 12**

26 Repeal the section.

27 **41 Subsection 14(1)**

28 Omit “Registrar”, substitute “Secretary”.

1 **42 Subsection 15(1)**

2 Omit all the words from and including “to”, substitute “to an officer or
3 employee of the Department.”.

4 **43 Subsections 15(2) and (3)**

5 Omit “under subsection (1)”.

6 **44 Subsection 16(1) (paragraph (a) of the definition of *person*
7 *to whom this section applies*)**

8 Omit “or a Deputy Registrar”.

9 **45 Subsection 16(1) (after paragraph (ba) of the definition of
10 *person to whom this section applies*)**

11 Insert:

12 (bb) the Commissioner; or

13 **46 Subsection 16(1) (subparagraph (c)(ii) of the definition of
14 *person to whom this section applies*)**

15 Omit “of Social Security”.

16 **47 Subsection 16(1) (at the end of the definition of *person to*
17 *whom this section applies*)**

18 Add:

19 ; or (g) a person to whom this section applied immediately before the
20 commencement of Schedule 5 to the *Child Support*
21 *Legislation Amendment Act (No. 2) 2000*.

22 **48 Subsection 16(3)**

23 Omit “a Deputy Registrar,” (first occurring).

24 **49 Subsection 16(3)**

25 Omit “or a Deputy Registrar”.

26 **50 Paragraph 16(3)(a)**

27 Omit “to the Department of Social Security”.

28 **51 Paragraph 16(3)(a)**

29 Omit “that”, substitute “the”.

1 **52 Paragraph 16(3)(b)**

2 Omit “of Social Security”.

3 **53 Paragraph 16(3)(c)**

4 Omit “an Act of which the Registrar (whether as Registrar or
5 Commissioner) has the general administration,” substitute “this Act or
6 the *Child Support (Assessment) Act 1989*.”

7 **54 Paragraph 16(3)(c)**

8 Omit “such an”, substitute “either”.

9 **55 After paragraph 16(3)(c)**

10 Insert:

11 (ca) to a person performing, as a person to whom this section
12 applies, duties under or in relation to an Act of which the
13 Commissioner has the general administration, or under
14 regulations made under such an Act, for the purpose of
15 enabling the person to perform those duties; or

16 **56 Subsection 16(8)**

17 Omit “or a Deputy Registrar”.

18 **57 At the end of Part II**

19 Add:

20 **16B Registrar’s power to request tax file numbers**

21 (1) This section applies to a person in Australia if the person is a payer
22 or a payee in relation to a registrable maintenance liability.

23 (2) The Registrar may request, but not compel, the person:

24 (a) to give the Registrar a written statement of the person’s tax
25 file number; or

26 (b) if the person does not have a tax file number—to apply to the
27 Commissioner for a tax file number and to give to the
28 Registrar a written statement of the person’s tax file number
29 after the Commissioner has issued it.

- 1 (3) A person is taken to have complied with a request under
 2 subsection (2) if the person gives to the Registrar a statement of a
 3 kind mentioned in subsection (4) or (5) of this section.
- 4 (4) The person may give to the Registrar a statement that the person:
 5 (a) has a tax file number but does not know what it is; and
 6 (b) has asked the Commissioner to inform the person of the
 7 person's tax file number; and
 8 (c) authorises the Commissioner to tell the Registrar:
 9 (i) whether the person has a tax file number; and
 10 (ii) if the person has a tax file number—that number.
- 11 (5) The person may give to the Registrar a statement that the person:
 12 (a) has an application for a tax file number pending; and
 13 (b) authorises the Commissioner to tell the Registrar:
 14 (i) if a tax file number is issued to the person—that
 15 number; or
 16 (ii) if the application is refused—that the application has
 17 been refused; or
 18 (iii) if the application is withdrawn—that the application has
 19 been withdrawn.

20 **16C Registrar may require Commissioner to provide information**

- 21 (1) The Registrar may require the Commissioner to provide the
 22 Registrar with information about people, including tax file
 23 numbers, being information that is in the possession of the
 24 Commissioner.
- 25 (2) Information provided to the Registrar under a requirement made
 26 under subsection (1) may be used only for the following purposes:
 27 (a) to facilitate the recovery of debts due to the Commonwealth
 28 under this Act;
 29 (b) to identify a person for purposes related to the purpose
 30 mentioned in paragraph (a).

31 **58 Section 72**

32 Repeal the section, substitute:

1 **72 Application of certain amounts to child support debts**

2 (1) If, apart from this section:

3 (a) the Commissioner would be required under section 8AAZLF
4 of the *Taxation Administration Act 1953* to refund an amount
5 (the **refund amount**) to a person (the **creditor**); and

6 (b) the creditor owes a child support debt to the Commonwealth
7 under this Act;

8 then, despite anything contained in any law of the Commonwealth
9 apart from this Act (including section 8AAZLF of the *Taxation*
10 *Administration Act 1953*):

11 (c) the Registrar may require the Commissioner, at a particular
12 time, to pay an amount to the Registrar not exceeding the
13 lesser of the refund amount and the child support debt; and

14 (d) if the Registrar so requires, the Commissioner must, as soon
15 as practicable, pay the required amount to the Registrar.

16 (2) If the Commissioner pays an amount to the Registrar under
17 subsection (1), the Registrar must:

18 (a) apply the amount against the child support debt of the
19 creditor; or

20 (b) if the child support debt has been paid in full after the time
21 mentioned in paragraph (1)(c)—pay the amount to the
22 creditor; or

23 (c) if the child support debt has been paid in part after the time
24 mentioned in paragraph (1)(c):

25 (i) apply the amount against the child support debt of the
26 creditor; and

27 (ii) if, after the amount has been applied, the child support
28 debt has been paid in full, pay any excess to the
29 creditor.

30 (3) If the Commissioner pays an amount to the Registrar under
31 subsection (1), the amount that the Commissioner is required to
32 refund under section 8AAZLF of the *Taxation Administration Act*
33 *1953* to the person is taken to be reduced by the amount paid to the
34 Registrar immediately after the amount is paid.

35 **59 Subsections 72AA(1) and (2)**

36 Omit “to the Department of Social Security”.

1 **60 Subsection 72AA(5)**

2 Repeal the subsection.

3 **61 Paragraph 113(1)(b)**

4 Omit “or a Deputy Registrar”.

5 **62 Subsections 116(1) and (2)**

6 Omit “or a Deputy Registrar”.

7 **63 Subsection 117(1)**

8 Omit “or a Deputy Registrar” (wherever occurring).

9 **64 Subsection 117(1)**

10 Omit “or Deputy Registrar, as the case may be,”.

11 **65 Subsection 117(2)**

12 Omit “or a Deputy Registrar”.

13 **66 Section 118**

14 Omit “or Deputy Registrar”.

15 **67 Section 123**

16 Repeal the section.

17 ***Income Tax Assessment Act 1936***

18 **68 After paragraph 16(4)(j)**

19 Insert:

20 (ja) the Child Support Registrar, for the purposes of the
21 administration of the *Child Support (Registration and*
22 *Collection) Act 1988* and the *Child Support (Assessment) Act*
23 *1989*;

24 **69 After paragraph 202(g)**

25 Insert:

26 (ga) to facilitate the administration of the *Child Support*
27 *(Assessment) Act 1989* and the *Child Support (Registration*
28 *and Collection) Act 1988*; and

1 ***Social Security (Administration) Act 1999***

2 **70 Subsection 238(2)**

3 Omit “Commissioner of Taxation”, substitute “Registrar”.

4 Note: The heading to section 238 is altered by adding at the end “**or the Child Support**
5 **Registrar**”.

6 ***Taxation Administration Act 1953***

7 **71 Paragraph 8WA(1)(b)**

8 After “(g),” insert “(ga),”.

9 **72 Paragraphs 8WB(1)(d) and (e)**

10 After “(g),” insert “(ga),”.

11 **73 Section 8WD**

12 Repeal the section.

13 **74 Saving provision**

14 To avoid doubt, the validity of anything done by a Deputy Registrar
15 before the commencement of this item is not affected by the
16 amendments of the *Child Support (Assessment) Act 1989* and the *Child*
17 *Support (Registration and Collection) Act 1988* made by this Schedule.

1
2 **Schedule 6—Departure prohibition orders**

3 **Part 1—Departure prohibition orders**

4 *Child Support (Registration and Collection) Act 1988*

5 **1 After Part V**

6 Insert:

7 **Part VA—Departure prohibition orders**

8 **Division 1—Registrar may make departure prohibition**
9 **orders**

10 **72D Registrar may make departure prohibition orders**

- 11 (1) The Registrar may make an order (a *departure prohibition order*)
12 prohibiting a person from departing from Australia for a foreign
13 country if:
- 14 (a) the person has a child support liability; and
 - 15 (b) the person has not made arrangements satisfactory to the
16 Registrar for the child support liability to be wholly
17 discharged; and
 - 18 (c) the Registrar is satisfied that the person has persistently and
19 without reasonable grounds failed to pay child support debts
20 arising from a registrable maintenance liability of a kind
21 mentioned in section 17; and
 - 22 (d) the Registrar believes on reasonable grounds that it is
23 desirable to make the order for the purpose of ensuring that
24 the person does not depart from Australia for a foreign
25 country without:
 - 26 (i) wholly discharging the child support liability; or
 - 27 (ii) making arrangements satisfactory to the Registrar for
28 the child support liability to be wholly discharged.
- 29 (2) For the purposes of paragraph (1)(c), the Registrar must have
30 regard to:

Schedule 6 Departure prohibition orders

Part 1 Departure prohibition orders

- 1 (a) the number of occasions on which a debt mentioned in that
2 paragraph had not been paid on or before the day on which it
3 became due and payable; and
4 (b) the number of occasions on which action has been taken to
5 recover such debts, and the outcome of the recovery action;
6 and
7 (c) the capacity of the person concerned to pay such debts; and
8 (d) such other matters as the Registrar considers appropriate.

9 (3) A departure prohibition order must be in the approved form.

10 Note: For *approved form* see section 72X.

11 **72E Meaning of *child support liability***

12 For the purposes of this Part, a person has a *child support liability*
13 if:

- 14 (a) the person has a registrable maintenance liability of a kind
15 mentioned in section 17; and
16 (b) an amount payable under the registrable maintenance liability
17 is a child support debt; and
18 (c) the day on which the debt became due and payable under
19 section 66 has passed, and the debt remains unpaid in whole
20 or in part.

21 **Division 2—Offence provision**

22 **72F Departure from Australia of certain child support debtors**
23 **prohibited**

24 A person must not depart from Australia for a foreign country if:

- 25 (a) a departure prohibition order in respect of the person is in
26 force, and the person knows that the order is in force, or is
27 reckless as to whether the order is in force; and
28 (b) the person's departure is not authorised by a departure
29 authorisation certificate, and the person knows that the
30 departure is not authorised by such a certificate, or is reckless
31 as to whether the departure is authorised by such a certificate.

32 Maximum penalty: 60 penalty units or imprisonment for 12
33 months, or both.

1 **Division 3—Administrative requirements**

2 **72G Notification requirements for departure prohibition orders**

3 (1) This section applies if the Registrar makes a departure prohibition
4 order in respect of a person.

5 (2) The Registrar must notify the person that the order has been made.

6 (3) The notice must be in the approved form and must be given as
7 soon as practicable after making the order.

8 Note: For *approved form* see section 72X.

9 (4) The Registrar must give to the Secretary of the Department of
10 Immigration and Multicultural Affairs a copy of the order, and
11 information likely to facilitate identification of the person, for the
12 purposes of administering the *Migration Act 1958*, unless the
13 Registrar is satisfied that the person is an Australian citizen.

14 (5) The Registrar must also give a copy of the order, and information
15 likely to facilitate identification of the person for the purposes of
16 this Part, to such other persons as the Registrar considers
17 appropriate in the circumstances, being persons prescribed by the
18 regulations for the purposes of this subsection.

19 (6) The Registrar must give a copy of the order or information under
20 subsection (4) or (5) as soon as practicable after making the order.

21 **72H Operation of departure prohibition order**

22 (1) A departure prohibition order comes into force when it is made,
23 and continues in force until it is revoked, or until it is set aside by a
24 court.

25 (2) However, a departure prohibition order in respect of a person is not
26 in force during any period when a deportation order in respect of
27 the person is in force under the *Migration Act 1958*.

28 **72I Revocation and variation of departure prohibition orders**

29 (1) The Registrar must revoke a departure prohibition order in respect
30 of a person if:

Schedule 6 Departure prohibition orders

Part 1 Departure prohibition orders

- 1 (a) the person no longer has a child support liability; or
2 (b) the person has a child support liability, but arrangements
3 satisfactory to the Registrar have been made for the liability
4 to be wholly discharged; or
5 (c) the person has a child support liability, but the Registrar is
6 satisfied that the liability is completely irrecoverable.
- 7 (2) However, if the Registrar considers that the person may later
8 become subject to a child support liability in respect of, or arising
9 out of, matters that have occurred, the Registrar must not revoke a
10 departure prohibition order under subsection (1) unless the
11 Registrar is satisfied:
- 12 (a) that the liability will be wholly discharged; or
13 (b) that arrangements satisfactory to the Registrar will be made
14 for the liability to be wholly discharged; or
15 (c) that the liability will be completely irrecoverable.
- 16 (3) The Registrar may also, at the Registrar's discretion, revoke or
17 vary a departure prohibition order in respect of a person if the
18 Registrar considers it desirable to do so.
- 19 (4) The Registrar may revoke or vary a departure prohibition order
20 under subsection (1) or (3):
21 (a) on application by the person in the approved form; or
22 (b) on the Registrar's own motion.

23 **72J Notification of decisions about revocation and variation**

- 24 (1) The Registrar must notify a person who has made an application
25 under paragraph 72I(4)(a) for the revocation or variation of a
26 departure prohibition order of the Registrar's decision on the
27 application.
- 28 (2) The Registrar must notify a person if the Registrar decides, on the
29 Registrar's own motion, to revoke or vary a departure prohibition
30 order in respect of the person.
- 31 (3) The Registrar must also notify each person to whom a copy of a
32 departure prohibition order was given under subsection 72G(4) or
33 (5) if the Registrar decides to revoke or vary the order.

- 1 (4) A notice under this section must be in the approved form, and must
2 be given as soon as practicable after the decision concerned is
3 made.

4 Note: For *approved form* see section 72X.

5 **Division 4—Departure authorisation certificates**

6 **72K Application for departure authorisation certificate**

- 7 (1) A person in respect of whom a departure prohibition order is in
8 force may apply for a certificate authorising the person to depart
9 from Australia for a foreign country (a *departure authorisation*
10 *certificate*).

- 11 (2) The application must be in the approved form.

12 Note: For *approved form* see section 72X.

13 **72L When Registrar must issue departure authorisation certificate**

- 14 (1) This section applies if a person makes an application under
15 section 72K for a departure authorisation certificate.

- 16 (2) The Registrar must issue the departure authorisation certificate if
17 the Registrar is satisfied:

18 (a) that, if the certificate is issued:

- 19 (i) it is likely that the person will depart from Australia and
20 return to Australia within a period that the Registrar
21 considers appropriate; and

- 22 (ii) it is likely that, within a period that the Registrar
23 considers appropriate, the Registrar will be required by
24 subsection 72I(1) to revoke the departure prohibition
25 order in respect of the person; and

26 (b) that it is not necessary for the person to give security under
27 section 72M for the person's return to Australia.

- 28 (3) If the Registrar is not satisfied as mentioned in subsection (2), the
29 Registrar must nevertheless issue the departure authorisation
30 certificate if:

31 (a) the person has given security under section 72M for the
32 person's return to Australia; or

- 1 (b) if the person is unable to give such security, the Registrar is
2 satisfied:
- 3 (i) that the certificate should be issued on humanitarian
4 grounds; or
- 5 (ii) that refusing to issue the certificate will be detrimental
6 to Australia's interests.

7 **72M Security for person's return to Australia**

- 8 (1) A person may give such security as the Registrar considers
9 appropriate by bond, deposit or any other means, for the person's
10 return to Australia by such day as is agreed by the person and the
11 Registrar and is specified in the departure authorisation certificate.
- 12 (2) The Registrar may substitute a later day for the day mentioned in
13 subsection (1), either on the Registrar's own motion, or on
14 application by the person in the approved form.
- 15 (3) The Registrar may refuse an application by a person to substitute a
16 later day if:
- 17 (a) the person refuses to increase the value of the security
18 already given to a level that the Registrar considers
19 appropriate; or
- 20 (b) the person refuses to give such further security as the
21 Registrar considers appropriate; or
- 22 (c) the Registrar considers that it would not be appropriate to
23 substitute the later day.

24 **72N What departure authorisation certificate must authorise**

- 25 (1) A departure authorisation certificate in respect of a person must
26 authorise the departure of the person on or before the seventh day
27 after a day specified in the certificate.
- 28 (2) The day specified in the certificate must be a day that is after the
29 day on which the certificate is issued, but not more than 7 days
30 after that day.

1 **72O Notification requirements for departure authorisation**
2 **certificates**

3 (1) The Registrar must notify a person who makes an application for a
4 departure authorisation certificate of the Registrar's decision on the
5 application.

6 (2) The notice must be in the approved form and must be given as
7 soon as practicable.

8 Note: For *approved form* see section 72X.

9 (3) If the Registrar decides to issue the departure authorisation
10 certificate, the Registrar must, as soon as practicable, give a copy
11 of the certificate to the person, and to each person to whom a copy
12 of the departure prohibition order in respect of the person was
13 given under subsection 72G(4) or (5).

14 **72P Notification requirements for substituted days**

15 (1) The Registrar must notify a person who makes an application
16 under section 72M to have a later day substituted of the Registrar's
17 decision on the application.

18 (2) The Registrar must notify a person in respect of whom a departure
19 authorisation certificate is in force if the Registrar decides, on the
20 Registrar's own motion, to substitute a later day.

21 (3) If the Registrar decides to substitute a later day, the Registrar must
22 also notify each person to whom a copy of the departure
23 prohibition order in respect of the person was given under
24 subsection 72G(4) or (5).

25 (4) A notice under this section must be given as soon as practicable.

1 **Division 5—Appeals and review in relation to departure**
2 **prohibition orders and departure authorisation**
3 **certificates**

4 **72Q Appeals to courts against making of departure prohibition**
5 **orders**

6 (1) A person aggrieved by the making of a departure prohibition order
7 may appeal to the Federal Court of Australia against the making of
8 the order.

9 (2) This section has effect:

- 10 (a) subject to Chapter III of the Constitution; and
11 (b) despite anything contained in section 9 of the *Administrative*
12 *Decisions (Judicial Review) Act 1977*.

13 **72R Jurisdiction of courts**

14 The jurisdiction of a court under section 72Q must be exercised by
15 a single Judge or Justice.

16 **72S Orders of court on appeal**

17 A court hearing an appeal under section 72Q against the making of
18 a departure prohibition order may, in its discretion:

- 19 (a) make an order setting aside the order; or
20 (b) dismiss the appeal.

21 **72T Applications for review of certain decisions**

22 (1) Applications may be made to the Administrative Appeals Tribunal
23 for review of a decision of the Registrar under section 72I, 72L or
24 72M.

25 (2) In this section:

26 *decision* has the same meaning as in the *Administrative Appeals*
27 *Tribunal Act 1975*.

1 **Division 6—Enforcement**

2 **72U Powers of authorised officers**

3 (1) This section applies if an authorised officer believes on reasonable
4 grounds that:

5 (a) a person is about to depart from Australia for a foreign
6 country; and

7 (b) a departure prohibition order in respect of the person is in
8 force; and

9 (c) the person's departure is not authorised by a departure
10 authorisation certificate.

11 (2) The authorised officer may:

12 (a) take such steps as are reasonably necessary to prevent the
13 person's departure, including, but not limited to, steps to
14 prevent the person going on board, or to remove the person
15 from, a vessel or aircraft in which the authorised officer
16 believes on reasonable grounds the departure will take place;
17 and

18 (b) require the person to answer questions or produce documents
19 to the authorised officer for the purposes of ascertaining
20 whether:

21 (i) a departure prohibition order in respect of the person is
22 in force; and

23 (ii) if such an order in respect of the person is in force—
24 whether the person's departure is authorised by a
25 departure authorisation certificate.

26 (3) A person is guilty of an offence if the person refuses or fails to
27 answer a question or produce a document.

28 Maximum penalty: 30 penalty units.

29 (4) However, a person is not guilty of an offence under subsection (3)
30 if the person answers the question or produces the document to the
31 extent that the person is capable of answering the question or
32 producing the document.

33 Note: A defendant bears an evidential burden in relation to the matters
34 mentioned in subsection (4).

- 1 (5) A person must not, in answer to a question under subsection (2),
2 make a statement that the person knows to be false or misleading in
3 a material particular.

4 Maximum penalty: 30 penalty units, or imprisonment for 6
5 months, or both.

6 **72V Privilege against self-incrimination**

- 7 (1) A person is not excused from the requirement to comply with a
8 requirement under paragraph 72U(2)(b) to answer questions or
9 produce documents on the ground that doing so might tend to
10 incriminate the person or expose the person to a penalty.

- 11 (2) However, if the person is an individual:

- 12 (a) the answer to the question or the document; or
13 (b) any other information, document or thing obtained as a direct
14 result of complying with the requirement;

15 is not admissible in evidence against the individual in any criminal
16 proceedings other than proceedings under, or arising out of,
17 subsection 72U(5).

18 **72W Certain people must produce authority to depart**

- 19 (1) If:

- 20 (a) a departure prohibition order in respect of a person is in
21 force; and
22 (b) the person is about to depart from Australia for a foreign
23 country; and
24 (c) the person's departure is authorised by a departure
25 authorisation certificate;

26 the person must give a copy of the certificate to an authorised
27 officer for inspection, if requested to do so by the authorised
28 officer.

29 Maximum penalty: 5 penalty units.

- 30 (2) Strict liability, within the meaning of section 6.1 of the *Criminal*
31 *Code*, applies to subsection (1).

1 **Division 7—Definitions etc.**

2 **72X Definitions**

3 In this Part:

4 *approved form* means a form approved by the Registrar for the
5 purposes of the provision in which the expression appears.

6 *authorised officer* means:

- 7 (a) an officer within the meaning of the *Customs Act 1901*; or
8 (b) a member of the Australian Federal Police.

9 **72Y Interpretation—departure from Australia for foreign country**

10 A reference in this Part to the departure of a person from Australia
11 for a foreign country is a reference to the departure of the person
12 from Australia for a foreign country, whether or not the person
13 intends to return to Australia.

1

2 **Part 2—Amendments consequential on changed**
3 **administrative law arrangements**

4 ***Child Support (Registration and Collection) Act 1988***

5 **2 Subsection 72T(1)**

6 Omit “Appeals”, substitute “Review”.

7 **3 Subsection 72T(2)**

8 Omit “*Administrative Appeals Tribunal Act 1975*”, substitute “Act that
9 establishes the Administrative Review Tribunal”.

10 **4 At the end of section 72T**

11 Add:

12 Note: The short title of the Act that establishes the Administrative Review
13 Tribunal is either the *Administrative Review Tribunal Act 2000* or the
14 *Administrative Review Tribunal Act 2001*.

1
2
3

Schedule 7—Minimum rate of child support

4

Child Support (Assessment) Act 1989

5
6

1 Subsection 66A(4) (paragraph (a) of the definition of *income*)

7
8
9

After “benefit”, insert “other than money earned, derived or received in a manner, or from a source, prescribed by the regulations for the purposes of this paragraph”.

10
11

2 Subsection 66A(4) (paragraph (b) of the definition of *income*)

12
13

After “allowance”, insert “other than a payment of a kind prescribed by the regulations for the purposes of this paragraph”.

1
2
3

Schedule 8—Supporting documents

4

Child Support (Assessment) Act 1989

5

1 Subsection 98G(1)

6

Omit all the words after “copy”, substitute “of the application to be served on the other party to the proceedings.”.

7

8

2 Subsection 98G(3)

9

Omit “and any accompanying documents”.

10

3 Subsection 98N(2)

11

Omit “and any accompanying documents”.

1
2 **Schedule 9—Definition of eligible carer**
3

4 ***Child Support (Assessment) Act 1989***

5 **1 Section 5 (definition of *eligible carer*)**

6 Repeal the definition, substitute:

7 *eligible carer* has the meaning given by section 7B.

8 **2 After section 7A**

9 Insert:

10 **7B Meaning of *eligible carer***

11 (1) In this Act, *eligible carer*, in relation to a child, means:

- 12 (a) a person who is the sole or principal provider of ongoing
13 daily care for the child; or
14 (b) a person who has major contact with the child; or
15 (c) a person who shares ongoing daily care of the child
16 substantially equally with another person; or
17 (d) a person who has substantial contact with the child.

18 (2) Despite subsection (1), if:

- 19 (a) a person provides care for a child, shares care of a child or
20 has contact with a child; and
21 (b) the person is neither a parent nor a legal guardian of the
22 child; and
23 (c) a parent or legal guardian of the child has indicated that he or
24 she does not consent to the person providing or sharing such
25 care, or having such contact;

26 then the person is not an eligible carer in relation to the child
27 unless it would be unreasonable in the circumstances for a parent
28 or legal guardian of the child to provide or share such care or have
29 such contact.

30 (3) For the purposes of subsection (2), it is unreasonable for a parent
31 or legal guardian to provide care for, share care of or have contact
32 with, a child if:

Schedule 9 Definition of eligible carer

- 1 (a) the Registrar is satisfied that there has been extreme family
2 breakdown; or
3 (b) the Registrar is satisfied that there is a serious risk to the
4 child's physical or mental wellbeing from violence or sexual
5 abuse in the home of the parent or legal guardian concerned.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Schedule 10—Technical amendments

Child Support (Assessment) Act 1989

1 Section 5 (subparagraph (c)(ii) of the definition of *relevant dependent child*)

Omit “section 58D of the *Family Court Act 1975*”, substitute “section 124 of the *Family Court Act 1997*”.

2 Paragraph 39(2)(a)

Omit “year”, substitute “period”.

3 Paragraph 39(2)(b)

Omit “at the end of the child support year”, substitute “12 months after the start of the child support period”.

4 Paragraph 39(2)(b) (definition of *base FTB rate*)

Omit “year”, substitute “period”.

5 Paragraph 39(2)(b) (definition of *standard FTB rate*)

Omit “year”, substitute “period”.

6 Subsection 39(5)

Repeal the subsection.

7 Subsection 47(1)

Omit “eligible for administrative assessment”, substitute “in respect of whom an assessment has been made”.

8 Subsection 98A(4)

Omit “The”, substitute “Subject to subsection (5), the”.

9 Subsection 98A(4)

Omit “made under subsection 66(1)”.

10 At the end of section 98A

Add:

1 (5) The Registrar may make a determination that varies, or has the
2 effect of varying, the annual rate of child support payable by a
3 liable parent under an assessment to a rate below \$260 per annum
4 if section 66 does not apply in relation to the child support payable
5 by the liable parent because of the operation of section 66B.

6 **11 Paragraph 110(1A)(a)**

7 Repeal the paragraph, substitute:

8 (a) an objection to those particulars has been lodged under
9 section 98X; and

10 **12 Paragraph 110(1A)(b)**

11 Omit “only”, substitute “in whole or”.

12 **13 Paragraph 116(1A)(a)**

13 Repeal the paragraph, substitute:

14 (a) an objection to the making of, or the refusal to make, the
15 departure determination has been lodged under section 98X;
16 and

17 **14 Paragraph 116(1A)(b)**

18 Omit “only”, substitute “in whole or”.

19 **15 Paragraph 117(3)(a)**

20 Omit “the number of days in the period”, substitute “365”.

21 **16 Paragraph 117(3)(b)**

22 Omit “365”, substitute “the number of days in the period”.

23 **17 Paragraph 117(3B)(a)**

24 Omit “the number of days in the period”, substitute “365”.

25 **18 Paragraph 117(3B)(b)**

26 Omit “365”, substitute “the number of days in the period”.

27 **19 Paragraph 132(1A)(a)**

28 Repeal the paragraph, substitute:

- 1 (a) an objection in relation to the decision has been lodged under
2 section 98X; and

3 **20 Paragraph 132(1A)(b)**

4 Omit “only”, substitute “in whole or”.

5 **21 Paragraph 151D(1)(b)**

6 Repeal the paragraph, substitute:

- 7 (b) a child support terminating event happens in relation to the
8 child on whichever of the following days occurs first:
9 (i) the day on which the Registrar is satisfied the child
10 ceased to be in full-time secondary education;
11 (ii) the last day of the secondary school year to which the
12 application relates.

13 **22 After subsection 151D(2)**

14 Insert:

15 *Child to be regarded as aged 17 for purposes of Part 5*

- 16 (2A) If the Registrar accepts the application, the child is to be taken to
17 be aged 17 for the purposes of applying Part 5 to the child
18 throughout the period:
19 (a) beginning on the day on which the child turned 18; and
20 (b) ending on the day on which a child support terminating event
21 (within the meaning of paragraph (1)(b)) happens in relation
22 to the child.

23 **23 Subsections 159B(1) and (2)**

24 Omit “55A or subsection 60(4)”, substitute “63A”.

25 ***Child Support (Registration and Collection) Act 1988***

26 **24 Subsection 67(1)**

27 Repeal the subsection, substitute:

- 28 (1) If a child support debt in respect of a payment period remains
29 unpaid after the time when it became due and payable, the person

- 1 liable to pay the debt is liable to pay to the Registrar, by way of
2 penalty, whichever of the following amounts applies:
- 3 (a) if the payment period is a week—an amount calculated on
4 the balance outstanding each week at a weekly rate equal to
5 $\frac{1}{52}$ of the relevant annual rate;
- 6 (b) if the payment period is a fortnight—an amount calculated on
7 the balance outstanding each fortnight at a fortnightly rate
8 equal to $\frac{1}{26}$ of the relevant annual rate;
- 9 (c) if the payment period is a 4 week period—an amount
10 calculated on the balance outstanding each four weeks at a
11 four weekly rate equal to $\frac{4}{52}$ of the relevant annual rate;
- 12 (d) if the payment period is a month or a calendar month—an
13 amount calculated on the balance outstanding each month or
14 calendar month at a monthly rate equal to $\frac{1}{12}$ of the relevant
15 annual rate.
- 16 (1AA) If a child support debt in respect of a day in an initial period
17 remains unpaid after the time when it became due and payable, the
18 person liable to pay the debt is liable to pay to the Registrar, by
19 way of penalty, an amount calculated on the balance outstanding
20 each month at a monthly rate equal to $\frac{1}{12}$ of the relevant annual
21 rate.

22 **25 Subsection 67(1A)**

23 Omit “subsection (1)”, substitute “subsections (1) and (1AA)”.

24 **26 Subsection 67(2)**

25 Omit “(1)”, substitute “(1) or (1AA)”.

26 **27 At the end of section 67**

27 Add:

28 (3) In this section:

29 *relevant annual rate* means the annual rate of the penalty for
30 unpaid income tax for the time being specified in the *Income Tax*
31 *Assessment Act 1936*.

32 **28 After section 67**

33 Insert:

67A Due date of certain debts for the purposes of calculating penalty

For the purposes of section 67, if:

- (a) the Registrar has entered an initial period in the Register under paragraph 26(2)(a) in respect of a liability; and
- (b) a child support debt in respect of a payment period for the liability becomes due and payable on a particular day (the *payment period due day*); and
- (c) the payment period due day occurs before any day on which a child support debt in respect of a day in the initial period for the liability is due and payable;

the child support debt in respect of the payment period is taken to have become due and payable on the day on which a child support debt in respect of the last day in the initial period is due and payable.

29 Subsection 71C(1)

Omit “month” (first occurring), substitute “payment period entered in the Register under paragraph 26(2)(b) or initial period entered in the Register under paragraph 26(2)(a)”.

30 Paragraph 71C(1)(a)

Omit “month”, substitute “period”.

31 Subsection 71C(1)

Omit “month” (third occurring), substitute “period”.

32 Paragraph 71C(2)(b)

Omit “months”, substitute “payment periods, and any initial period,”.

33 Paragraph 71C(2)(b)

Omit “month”, substitute “period”.

34 Subsections 71C(3) and (4)

Omit “month” (wherever occurring) substitute “period”.

35 Paragraph 84A(1)(a)

Omit “or 71A”, substitute “, 71A or 71C”.