

2008

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Families, Housing, Community Services
and Indigenous Affairs and Other
Legislation Amendment (Further 2008
Budget and Other Measures) Bill 2008**

No. , 2008

(Families, Housing, Community Services and Indigenous Affairs)

**A Bill for an Act to amend the law relating to
family assistance, child support and veterans'
affairs, and for related purposes**

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1 **A Bill for an Act to amend the law relating to**
2 **family assistance, child support and veterans’**
3 **affairs, and for related purposes**

4 The Parliament of Australia enacts:

5 **1 Short title**

6 This Act may be cited as the *Families, Housing, Community*
7 *Services and Indigenous Affairs and Other Legislation Amendment*
8 *(Further 2008 Budget and Other Measures) Act 2008.*

9 **2 Commencement**

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

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	
2. Schedule 1, items 1 and 2	1 January 2009.	1 January 2009
3. Schedule 1, item 3	Immediately after the commencement of Part 1 of Schedule 2 to the <i>Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Act 2008</i> .	1 January 2009
4. Schedule 1, items 4 to 14	1 January 2009.	1 January 2009
5. Schedule 2, Part 1	The day on which this Act receives the Royal Assent.	
6. Schedule 2, Part 2	1 January 2009.	1 January 2009
7. Schedule 2, Part 3	Immediately after the commencement of Schedule 15 to the <i>Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008</i> .	
8. Schedule 3, Part 1	The 28th day after the day on which this Act receives the Royal Assent.	
9. Schedule 3, Part 2	The day after this Act receives the Royal Assent.	
10. Schedule 3, Parts 3 to 5	The 28th day after the day on which this Act receives the Royal Assent.	
11. Schedule 3, Part 6	The day after this Act receives the Royal Assent.	
12. Schedule 3, Part 7	The 28th day after the day on which this Act receives the Royal Assent.	
	Note:	This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

1 (2) Column 3 of the table contains additional information that is not
2 part of this Act. Information in this column may be added to or
3 edited in any published version of this Act.

4 **3 Schedule(s)**

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

1
2 **Schedule 1—Maternity immunisation**
3 **allowance**
4

5 ***A New Tax System (Family Assistance) Act 1999***

6 **1 Subsection 39(1)**

7 Omit “3”, substitute “7”.

8 Note: The heading to subsection 39(2) is replaced by the heading “*Usual case*”.

9 **2 After subsection 39(2)**

10 Insert:

11 (2A) Second, an individual is eligible for maternity immunisation
12 allowance in respect of a child who is alive at the end of 4 years
13 after the date of the child’s birth if:

- 14 (a) the Secretary is satisfied that the child meets the
15 immunisation requirements set out in section 6 on any day
16 before the child turns 5; and
17 (b) the child is an FTB child of the individual; and
18 (c) on the later of the following days:
19 (i) the day the child turned 4;
20 (ii) the earliest day to which paragraph (a) applies;
21 the individual either:
22 (iii) is eligible for family tax benefit in respect of the FTB
23 child; or
24 (iv) would be so eligible except that the individual’s rate of
25 family tax benefit, worked out under Division 1 of
26 Part 4, is nil.

27 **3 Subsection 39(3)**

28 Omit “Second”, substitute “Third”.

29 **4 Subsection 39(4)**

30 Omit “Third”, substitute “Fourth”.

31 Note: The heading to subsection 39(4) is altered by omitting “2” and substituting “5”.

32 **5 Subsection 39(4)**

1 Omit “2”, substitute “5”.

2 **6 At the end of section 39**

3 Add:

4 *Adoption of children born outside Australia*

5 (5) Fifth, an individual is eligible for maternity immunisation
6 allowance in respect of a child if:

7 (a) the child is born outside Australia; and

8 (b) either:

9 (i) while the child is outside Australia, the child is adopted
10 under the law of any place (whether in Australia or not)
11 relating to the adoption of children (whether or not the
12 child is adopted by the individual); or

13 (ii) the child is in the process of being adopted under the
14 law of any place (whether in Australia or not) relating to
15 the adoption of children (whether or not the child is to
16 be adopted by the individual); and

17 (c) as part of the process for the adoption of the child, the child
18 is entrusted to the care of a person adopting the child by an
19 authorised party; and

20 (d) either:

21 (i) if subparagraph (b)(i) applies—the child arrives in
22 Australia from overseas after the adoption takes place
23 and the child so arrives on the day the child turns 3 or
24 an earlier day; or

25 (ii) if subparagraph (b)(ii) applies—the child arrives in
26 Australia from overseas as part of the process for the
27 adoption of the child and the child so arrives on the day
28 the child turns 3 or an earlier day; and

29 (e) the Secretary is satisfied that the child meets the
30 immunisation requirements set out in section 6 on or after the
31 day the child turns 18 months and before the day the child
32 turns 4; and

33 (f) on the earliest day to which paragraph (e) applies:

34 (i) the child is an FTB child of the individual; and

35 (ii) the individual is eligible for family tax benefit in respect
36 of the FTB child or would be so eligible except that the

1 individual's rate of family tax benefit, worked out under
2 Division 1 of Part 4, is nil.

3 (6) Sixth, an individual is eligible for maternity immunisation
4 allowance in respect of a child if:

5 (a) the child is born outside Australia; and

6 (b) either:

7 (i) while the child is outside Australia, the child is adopted
8 under the law of any place (whether in Australia or not)
9 relating to the adoption of children (whether or not the
10 child is adopted by the individual); or

11 (ii) the child is in the process of being adopted under the
12 law of any place (whether in Australia or not) relating to
13 the adoption of children (whether or not the child is to
14 be adopted by the individual); and

15 (c) as part of the process for the adoption of the child, the child
16 is entrusted to the care of a person adopting the child by an
17 authorised party; and

18 (d) either:

19 (i) if subparagraph (b)(i) applies—the child arrives in
20 Australia from overseas after the adoption takes place
21 and the child so arrives on a day that is after the child
22 turns 3 and before the child turns 16; or

23 (ii) if subparagraph (b)(ii) applies—the child arrives in
24 Australia from overseas as part of the process for the
25 adoption of the child and the child so arrives on a day
26 that is after the child turns 3 and before the child turns
27 16; and

28 (e) either subsection (7) or (8) is satisfied.

29 (7) This subsection is satisfied if:

30 (a) the Secretary is satisfied that the child meets the
31 immunisation requirements set out in section 6 on any day
32 within the last 6 months of the period of 2 years beginning on
33 the day of the arrival mentioned in paragraph (6)(d); and

34 (b) on the earliest day to which paragraph (a) applies:

35 (i) the child is an FTB child of the individual; and

36 (ii) the individual is eligible for family tax benefit in respect
37 of the FTB child or would be so eligible except that the

- 1 individual's rate of family tax benefit, worked out under
2 Division 1 of Part 4, is nil.
- 3 (8) This subsection is satisfied if the child dies within the period of 2
4 years beginning on the day of the arrival mentioned in
5 paragraph (6)(d), and on the day of the child's death:
6 (a) the child is an FTB child of the individual; and
7 (b) the individual is eligible for family tax benefit in respect of
8 the FTB child or would be so eligible except that the
9 individual's rate of family tax benefit, worked out under
10 Division 1 of Part 4, is nil.
- 11 (9) Seventh, an individual is eligible for maternity immunisation
12 allowance in respect of a child if:
13 (a) the child is born outside Australia; and
14 (b) either:
15 (i) while the child is outside Australia, the child is adopted
16 under the law of any place (whether in Australia or not)
17 relating to the adoption of children (whether or not the
18 child is adopted by the individual); or
19 (ii) the child is in the process of being adopted under the
20 law of any place (whether in Australia or not) relating to
21 the adoption of children (whether or not the child is to
22 be adopted by the individual); and
23 (c) as part of the process for the adoption of the child and while
24 the child is outside Australia, the child is entrusted to the care
25 of a person adopting the child by an authorised party; and
26 (d) the child dies before turning 16; and
27 (e) the child has not arrived in Australia from overseas after the
28 child is entrusted to care as mentioned in paragraph (c); and
29 (f) on the day of the child's death:
30 (i) the child is an FTB child of the individual; and
31 (ii) the individual is eligible for family tax benefit in respect
32 of the FTB child or would be so eligible except that the
33 individual's rate of family tax benefit, worked out under
34 Division 1 of Part 4, is nil.
- 35 (10) For the purposes of paragraphs (7)(b), (8)(a) and (b) and (9)(f), the
36 following provisions are to be disregarded:
37 (a) paragraph (a) of item 1 of the table in subsection 22A(1);
38 (b) paragraphs (a) and (c) of item 2 of that table;
-

1 (c) item 3 of that table.

2 Note: Section 22A sets out exceptions to when an individual can be an FTB
3 child of another individual. This subsection removes some of those
4 exceptions.

5 **7 Section 67**

6 Omit “The”, substitute “(1) Subject to this section, the”.

7 **8 At the end of section 67**

8 Add:

9 *Half-amount*

10 (2) Subject to this section, the amount of maternity immunisation
11 allowance in respect of a child is half of the amount under
12 subsection (1) if:

13 (a) the Secretary determines that an individual is entitled to be
14 paid the allowance for the child based on eligibility for the
15 allowance under subsection 39(2), (2A) or (5) or section 40
16 (so far as it relates to that subsection); or

17 (b) both of the following apply:

18 (i) the Secretary determines that an individual is entitled to
19 be paid the allowance for the child based on eligibility
20 for the allowance under subsection 39(4) or section 40
21 (so far as it relates to that subsection);

22 (ii) before that determination, the Secretary had determined
23 that an amount of the allowance under this subsection
24 was to be paid in respect of the child based on eligibility
25 for the allowance under subsection 39(2) or (5) or
26 section 40 (so far as it relates to subsection 39(2) or (5)).

27 *Exception*

28 (3) Subsection (2) does not apply if:

29 (a) the Secretary determines that an individual is entitled to be
30 paid maternity immunisation allowance for a child based on
31 eligibility for the allowance under subsection 39(2A) or
32 section 40 (so far as it relates to that subsection); and

33 (b) before that determination:

34 (i) the Secretary had not determined that maternity
35 immunisation allowance, based on eligibility for the

- 1 allowance under subsection 39(2) or section 40 (so far
2 as it relates to that subsection), was to be paid in respect
3 of the child; and
4 (ii) the Secretary had not determined that maternity
5 immunisation allowance, based on eligibility for the
6 allowance under subsection 39(5) or section 40 (so far
7 as it relates to that subsection), was to be paid in respect
8 of the child.

9 *Maximum amount of maternity immunisation allowance*

- 10 (4) If:
11 (a) one amount of maternity immunisation allowance under
12 subsection (1) has been paid in respect of a child; or
13 (b) 2 amounts of maternity immunisation allowance under
14 subsection (2) have been paid in respect of a child;
15 no further amount of maternity immunisation allowance is to be
16 paid in respect of the child.
17 (5) If the Secretary determines that an individual is entitled to be paid
18 maternity immunisation allowance for a child based on eligibility
19 for the allowance:
20 (a) under either of subsections 39(2) and (5); or
21 (b) under section 40 (so far as it relates to either of those
22 subsections);
23 no amount of the allowance is to be paid for the child based on
24 eligibility for the allowance under the other of those subsections or
25 under section 40 (so far as it relates to the other of those
26 subsections).

27 **9 Paragraph 68(a)**

28 Omit “subsection 39(2) or (4)”, substitute “subsection 39(2), (2A), (4),
29 (5), (6) or (9)”.

30 ***A New Tax System (Family Assistance) (Administration) Act***
31 ***1999***

32 **10 Subsection 39(4)**

33 Repeal the subsection, substitute:

Schedule 1 Maternity immunisation allowance

“Normal circumstances” maternity immunisation allowance claim

- (4) A claim for payment of maternity immunisation allowance in normal circumstances is not effective if it is made after the time specified in the following table:

Normal circumstances maternity immunisation allowance claim

Item	If the claim is based on eligibility for the allowance under:	the claim is not effective if it is made after:
1	Subsection 39(2) of the Family Assistance Act	2 years after the birth of the child
2	Subsection 39(2A) of the Family Assistance Act	5 years after the birth of the child
3	Subsection 39(3) of the Family Assistance Act	5 years after the delivery of the child
4	Subsection 39(4) of the Family Assistance Act	the later of: (a) 2 years after the death of the child; and (b) 5 years after the birth of the child
5	Subsection 39(5) of the Family Assistance Act	4 years after the birth of the child
6	Subsection 39(6) of the Family Assistance Act	(a) if subsection 39(7) of that Act applies—2 years beginning on the day of the arrival mentioned in paragraph 39(6)(d) of that Act; or (b) if subsection 39(8) of that Act applies—2 years after the death of the child
7	Subsection 39(9) of the Family Assistance Act	the later of: (a) 2 years after the death of the child; and (b) 5 years after the birth of the child

11 Subsections 41(5) and (6)

Repeal the subsections, substitute:

Deferral of “normal circumstances” maternity immunisation allowance determination because of ineligibility

- (5) If:
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- (a) the claim is one for payment of maternity immunisation allowance in normal circumstances, based on eligibility for the allowance under subsection 39(2), (2A) or (5) of the Family Assistance Act, or subsection 39(6) of that Act (where subsection 39(7) of that Act applies), in respect of a child; and
 - (b) at the time the determination would otherwise be made on the claim:
 - (i) the claimant is not eligible for maternity immunisation allowance under subsection 39(2), (2A), (5) or (6) of that Act in respect of the child; and
 - (ii) the child is an FTB child of the claimant; and
 - (iii) the claimant is eligible for family tax benefit in respect of the child or would be so eligible except that the claimant's rate of family tax benefit, worked out under Division 1 of Part 4 of the Family Assistance Act, is nil;the Secretary must not determine the claim until after the time mentioned in subsection (6).
- (6) The time for the purposes of subsection (5) is:
- (a) if the claim is based on eligibility for the allowance under subsection 39(2) of the Family Assistance Act:
 - (i) if the claimant becomes eligible for maternity immunisation allowance under subsection 39(2) of that Act in respect of the child before the end of 2 years after the child was born—the time when the claimant becomes so eligible; or
 - (ii) in any other case—2 years after the child was born; or
 - (b) if the claim is based on eligibility for the allowance under subsection 39(2A) of the Family Assistance Act:
 - (i) if the claimant becomes eligible for maternity immunisation allowance under subsection 39(2A) of that Act in respect of the child before the end of 5 years after the child was born—the time when the claimant becomes so eligible; or
 - (ii) in any other case—5 years after the child was born; or
 - (c) if the claim is based on eligibility for the allowance under subsection 39(5) of the Family Assistance Act:
 - (i) if the claimant becomes eligible for maternity immunisation allowance under subsection 39(5) of that

- 1 Act in respect of the child before the end of 4 years after
2 the child was born—the time when the claimant
3 becomes so eligible; or
4 (ii) in any other case—4 years after the child was born; or
5 (d) if the claim is based on eligibility for the allowance under
6 subsection 39(6) of the Family Assistance Act (where
7 subsection 39(7) of that Act applies):
8 (i) if the claimant becomes eligible for maternity
9 immunisation allowance under subsection 39(6) of that
10 Act (where subsection 39(7) of that Act applies) in
11 respect of the child before the end of 2 years beginning
12 on the day of the arrival mentioned in paragraph
13 39(6)(d) of that Act—the time when the claimant
14 becomes so eligible; or
15 (ii) in any other case—2 years beginning on the day of the
16 arrival mentioned in paragraph 39(6)(d) of that Act.
- 17 (7) If the claim is one for payment of maternity immunisation
18 allowance in normal circumstances, based on eligibility for the
19 allowance under subsection 39(6) of the Family Assistance Act
20 (where subsection 39(7) of that Act applies), then, for the purposes
21 of subparagraphs (5)(b)(ii) and (iii) of this section, the following
22 provisions are to be disregarded:
23 (a) paragraph (a) of item 1 of the table in subsection 22A(1) of
24 the Family Assistance Act;
25 (b) paragraphs (a) and (c) of item 2 of that table;
26 (c) item 3 of that table.
- 27 Note: Section 22A of the Family Assistance Act sets out exceptions to when
28 an individual can be an FTB child of another individual. This
29 subsection removes some of those exceptions.

30 **12 Application and transitional—eligibility for maternity** 31 **immunisation allowance**

32 *Usual case*

- 33 (1) Subsection 39(2A) of the *A New Tax System (Family Assistance) Act*
34 *1999* applies in relation to:
35 (a) children born on or after the commencement of this item; and
36 (b) children born before the commencement of this item, other
37 than children in respect of whom the Secretary had
-

1 determined, before that commencement, maternity
 2 immunisation allowance was to be paid, based on eligibility
 3 for the allowance under subsection 39(2) of that Act or
 4 section 40 of that Act (so far as it relates to that subsection).

5 *Child dies within 5 years of birth*

6 (2) The amendment made by item 5 applies in relation to deaths occurring
 7 on or after the commencement of that item.

8 *Adoption of children born outside Australia*

9 (3) Subsections 39(5) and (6) of the *A New Tax System (Family Assistance)*
 10 *Act 1999* apply in relation to:

- 11 (a) processes for adoptions beginning before, on or after the
 12 commencement of this item; and
 13 (b) arrivals in Australia occurring on or after 1 July 2006.

14 (4) Paragraph 39(5)(e) of the *A New Tax System (Family Assistance) Act*
 15 *1999* applies in relation to a child arriving in Australia on or after 1 July
 16 2006 and before 1 January 2009 as if the reference in that paragraph to
 17 “the day the child turns 4” were a reference to “1 January 2011”.

18 (5) Subsection 39(6) of the *A New Tax System (Family Assistance) Act*
 19 *1999*, insofar as it relates to subsection 39(8) of that Act, applies as if a
 20 reference in subparagraphs 39(6)(d)(i) and (ii) of that Act to “the child
 21 so arrives on a day that is after the child turns 3 and before the child
 22 turns 16” included a reference to “the child so arrives on or after 1 July
 23 2006 and before 1 January 2009 and so arrives on the day the child
 24 turns 3 or an earlier day”.

25 (6) Paragraph 39(7)(a) of the *A New Tax System (Family Assistance) Act*
 26 *1999* applies in relation to a child arriving in Australia on or after 1 July
 27 2006 and before 1 January 2009 as if the reference in that paragraph to
 28 “within the last 6 months of the period of 2 years beginning on the day
 29 of the arrival mentioned in paragraph (6)(d)” were a reference to “that is
 30 at least 18 months after the day of the arrival mentioned in
 31 paragraph (6)(d) and is before 1 January 2011”.

32 (7) Subsection 39(8) of the *A New Tax System (Family Assistance) Act*
 33 *1999* applies in relation to a child arriving in Australia on or after 1 July
 34 2006 and before 1 January 2009 as if the reference in that subsection to
 35 “within the period of 2 years beginning on the day of the arrival

1 mentioned in paragraph (6)(d)” were a reference to “before 1 January
2 2011”.

3 (8) Subsection 39(9) of the *A New Tax System (Family Assistance) Act*
4 *1999* applies in relation to:

- 5 (a) processes for adoptions beginning before, on or after the
6 commencement of this item; and
7 (b) deaths occurring on or after 1 July 2006.

8 **13 Application and transitional—amount of maternity**
9 **immunisation allowance**

10 (1) Paragraph 67(2)(a) of the *A New Tax System (Family Assistance) Act*
11 *1999*, to the extent it relates to subsection 39(2) of that Act or section 40
12 of that Act (so far as it relates to subsection 39(2) of that Act) applies in
13 relation to:

- 14 (a) claims for payment of maternity immunisation allowance
15 made on or after the commencement of this item; and
16 (b) claims for payment of maternity immunisation allowance
17 made before that commencement that had not been
18 determined by the Secretary before that commencement.

19 (2) If:

- 20 (a) the Secretary determines that an individual is entitled to be
21 paid maternity immunisation allowance for a child based on
22 eligibility for the allowance under subsection 39(5) of the *A*
23 *New Tax System (Family Assistance) Act 1999* or section 40
24 of that Act (so far as it relates to that subsection); and
25 (b) the day of the arrival mentioned in paragraph 39(5)(d) of that
26 Act was before 1 January 2009;

27 then:

- 28 (c) the amount of the allowance in respect of the child is the
29 amount under subsection 67(1) of that Act; and
30 (d) paragraph 67(4)(a) of that Act is taken to be satisfied in
31 relation to that amount.

32 (3) If, before the commencement of this item, the Secretary determined that
33 an amount of maternity immunisation allowance under section 67 of the
34 *A New Tax System (Family Assistance) Act 1999* was to be paid in
35 respect of a child, no further amount of maternity immunisation
36 allowance is to be paid in respect of the child after that commencement.

14 Application and transitional—claims for maternity immunisation allowance

(1) If:

- (a) an individual made a claim for maternity immunisation allowance before the commencement of this item based on eligibility for the allowance under subsection 39(2) of the *A New Tax System (Family Assistance) Act 1999*; and
- (b) the claim had not been determined by the Secretary before that commencement;

the individual is also taken to have made a claim for maternity immunisation allowance, based on eligibility for the allowance under subsection 39(2A) of the *A New Tax System (Family Assistance) Act 1999*, on 1 January 2009.

(2) If:

(a) an individual:

- (i) is eligible for maternity immunisation allowance under subsection 39(5) or (6) of the *A New Tax System (Family Assistance) Act 1999* in respect of an arrival in Australia that occurred before 1 January 2009; or
- (ii) is eligible for maternity immunisation allowance under subsection 39(9) of the *A New Tax System (Family Assistance) Act 1999* in respect of a death that occurred before 1 January 2009; and

(b) the individual makes a claim for the allowance before 1 January 2011; and

(c) apart from this subitem, subsection 39(4) of the *A New Tax System (Family Assistance) (Administration) Act 1999* would apply to make the claim not effective;

then subsection 39(4) of the *A New Tax System (Family Assistance) (Administration) Act 1999* does not apply in relation to the claim.

(3) The amendment made by item 10 applies in relation to claims for payment of maternity immunisation allowance made on or after the commencement of that item.

(4) The amendment made by item 11 applies in relation to:

- (a) claims for payment of maternity immunisation allowance made on or after the commencement of that item; and

Schedule 1 Maternity immunisation allowance

- 1 (b) claims for payment of maternity immunisation allowance
2 made before that commencement that had not been
3 determined by the Secretary before that commencement.

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2 **Schedule 2—Partner service pension**

3 **Part 1—Amendments commencing on Royal Assent**

4 *Veterans' Entitlements Act 1986*

5 **1 Paragraphs 38(1B)(a) and (b)**

6 Repeal the paragraphs, substitute:

- 7 (a) has a dependent child when he or she makes a claim for the
8 pension; or
9 (b) if subsection (1BA) applies in relation to the person—has
10 reached 50 years of age; or
11 (c) has reached qualifying age.

12 **2 After subsection 38(1B)**

13 Insert:

14 (1BA) This subsection applies in relation to a person if:

- 15 (a) paragraph (1)(a) or (f) applies in relation to the person; and
16 (b) one of the following applies:
17 (i) the veteran concerned is a veteran to whom subsection
18 22(4) or section 23 or 25 applies;
19 (ii) the veteran concerned is a veteran to whom section 22
20 applies who is in receipt of a pension the rate of which
21 has been increased because the pension is in respect of
22 an incapacity described in item 1, 2, 3, 4, 5 or 6 of the
23 table in subsection 27(1);
24 (iii) the veteran concerned suffers an impairment (within the
25 meaning of the MRCA) and the Military Rehabilitation
26 and Compensation Commission has determined under
27 Part 2 of Chapter 4 of the MRCA that the impairment
28 constitutes at least 80 impairment points (within the
29 meaning of the MRCA).

30 **3 Application**

31 The amendments made by items 1 and 2 apply in relation to claims for
32 partner service pension made on or after the commencement of those
33 items.

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2 **Part 2—Amendments commencing on 1 January**
3 **2009**

4 ***Veterans’ Entitlements Act 1986***

5 **4 Subsection 38(1)**

6 Omit “subsections (1B) and (4)”, substitute “this section”.

7 **5 After subsection 38(2A)**

8 Insert:

9 (2AA) A person’s eligibility under paragraph (1)(b) or (g) ceases if:

10 (a) in the Commission’s opinion, the veteran concerned was in a
11 marriage-like relationship with another person when this
12 subsection commenced; or

13 (b) after this subsection commenced, the veteran concerned
14 enters into a relationship with another person and, in the
15 Commission’s opinion, the relationship is a marriage-like
16 relationship.

17 Note: The Commission’s opinion is to be formed as mentioned in
18 section 11A.

19 (2AB) A person’s eligibility under paragraph (1)(b) or (g) ceases at the
20 end of the period of 12 months beginning on the first day on which
21 the person was living separately and apart from the veteran
22 concerned on a permanent basis.

23 (2AC) A person’s eligibility under paragraph (1)(b) or (g) does not cease
24 under subsection (2AA) or (2AB) if the person has reached pension
25 age.

26 Note: For *pension age* see section 5Q.

27 **6 Paragraph 38(2B)(c)**

28 After “(2A)”, insert “, (2AA) or (2AB)”.

29 **7 Application**

- 1 (1) Subsection 38(2AB) of the *Veterans' Entitlements Act 1986*, as inserted
2 by this Act, applies in relation to a person living separately and apart
3 from a veteran before, on or after the commencement of this item.
- 4 (2) However, if the period of 12 months referred to in that subsection ended
5 before the commencement of this item, the person's eligibility under
6 paragraph 38(1)(b) or (g) of that Act does not cease under that
7 subsection until the commencement of this item (despite that
8 subsection).
- 9 Note: The person's eligibility does not cease under that subsection if the person has reached
10 pension age: see subsection 38(2AC) of that Act.

1

2 **Part 3—Amendments commencing on the same-sex**
3 **start day**

4 ***Veterans’ Entitlements Act 1986***

5 **8 Paragraph 38(2AA)(a)**

6 Omit “marriage-like”, substitute “de facto”.

7 **9 Paragraph 38(2AA)(a)**

8 Omit “when this subsection commenced”, substitute “on the same-sex
9 start day”.

10 **10 Paragraph 38(2AA)(b)**

11 Omit “this subsection commenced”, substitute “the same-sex start day”.

12 **11 Paragraph 38(2AA)(b)**

13 Omit “marriage-like”, substitute “de facto”.

14 **12 At the end of section 38**

15 Add:

16 (5) In this section:

17 *same-sex start day* means the day on which Schedule 15 to the
18 *Same-Sex Relationships (Equal Treatment in Commonwealth*
19 *Laws—General Law Reform) Act 2008* commences.

20 **13 Saving**

21 The amendments made by this Part do not affect the operation of
22 subsection 38(2AA) of the *Veterans’ Entitlements Act 1986*, as in force
23 before the commencement of this Part.

1
2 **Schedule 3—Child support**

3 **Part 1—Percentage of care**

4 *Child Support (Assessment) Act 1989*

5 **1 Paragraph 48(1)(b)**

6 Repeal the paragraph, substitute:

7 (b) if one of the following events occurs:

8 (i) there is a change of less than 7.1% in the percentage of
9 care for the child that the person has because of an
10 agreement, plan or order mentioned in paragraph 49(a)
11 or (b) (including a variation of such an agreement, plan
12 or order);

13 (ii) there is a change of at least 7.1% in the percentage of
14 care for the child that the person has, and the change
15 alters the person's cost percentage for the child;

16 (iii) the person's percentage of care for the child falls below
17 14%;

18 (iv) the person's percentage of care for the child increases to
19 14%, or above 14%;

20 (v) the person's percentage of care for the child falls below
21 35%;

22 (vi) the person's percentage of care for the child increases to
23 35%, or above 35%;

24 whichever of the following days is applicable:

25 (vii) if the Registrar is notified, or otherwise becomes aware,
26 of the event within 28 days after the day on which the
27 event occurs—the day on which the event occurs;

28 (viii) in any other case—the day on which the Registrar is
29 notified, or otherwise becomes aware, of the event; or

30 **2 At the end of section 52**

31 Add:

32 (5) However, the Registrar is not required to review a determination as
33 mentioned in subsection (4) if the Registrar is satisfied that there
34 are special circumstances that justify the Registrar in not doing so.

1 **3 Before subparagraph 74A(b)(i)**

2 Insert:

- 3 (ia) a person’s percentage of care for the child has changed
4 by less than 7.1%, and the change is because of an
5 agreement, plan or order mentioned in paragraph 49(a)
6 or (b) (including a variation of such an agreement, plan
7 or order); or

8 **4 Subparagraph 74A(b)(i)**

9 Omit “affects the annual rate of child support payable for the child”,
10 substitute “alters the person’s cost percentage for the child”.

11 **5 Subparagraph 74A(b)(iii)**

12 Omit “14%; and”, substitute “14%; or”.

13 **6 At the end of paragraph 74A(b)**

14 Add:

- 15 (iv) a person’s percentage of care for the child has fallen
16 below 35%; or
17 (v) a person’s percentage of care for the child has increased
18 to 35%, or above 35%; and

19 **7 Section 74A**

20 Omit “on and from the day the Registrar was notified, or otherwise
21 became aware, of the change of percentage referred to in
22 paragraph (b).”, substitute:

23 on and from whichever of the following days is applicable:

- 24 (e) if the Registrar is notified, or otherwise becomes aware, of
25 the change of percentage referred to in paragraph (b) within
26 28 days after the day on which the change occurs—the day
27 on which the change occurs;
28 (f) in any other case—the day on which the Registrar is notified,
29 or otherwise becomes aware, of the change of percentage
30 referred to in paragraph (b).

31 **8 Before paragraph 75(2)(a)**

32 Insert:

- 33 (aa) the change to the person’s percentage of care is less than
34 7.1%, and the change is because of an agreement, plan or
-

1 order mentioned in paragraph 49(a) or (b) (including a
2 variation of such an agreement, plan or order); or

3 **9 Paragraph 75(2)(a)**

4 Omit “affects the annual rate of child support payable for the child”,
5 substitute “alters the person’s cost percentage for the child”.

6 **10 After paragraph 75(2)(c)**

7 Insert:

8 (ca) the person’s percentage of care falls below 35%; or

9 (cb) the person’s percentage of care increases to 35%, or above
10 35%; or

11 **11 Application and transitional**

12 (1) The amendments made by items 1 and 3 to 10 apply in relation to
13 changes in percentages of care that occur on or after 1 July 2008.

14 (2) Subparagraphs 48(1)(b)(i) and 74A(b)(ia) and paragraph 75(2)(aa) of
15 the *Child Support (Assessment) Act 1989*, as inserted by this Act, apply
16 in relation to:

17 (a) agreements, plans or orders made on or after 1 July 2008; and

18 (b) variations, occurring on or after 1 July 2008, of agreements,
19 plans or orders made on or after 1 July 2008.

20 (3) If:

21 (a) a change in percentage of care mentioned in subitem (1)
22 occurred before the commencement of this item; and

23 (b) as a result of that change, an assessment is amended under
24 section 75 of the *Child Support (Assessment) Act 1989*;

25 the amendment cannot take effect earlier than the commencement of
26 this item.

27 (4) The amendment made by item 2 applies in relation to determinations
28 made on or after the commencement of that item.

1

2 **Part 2—Publication of reasons for decisions of the**
3 **Social Security Appeals Tribunal**

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

5 **12 After subsection 16(2A)**

6 Insert:

7 (2AA) Subsection (2) does not prevent:

- 8 (a) the SSAT from communicating the reasons for a decision of
9 the SSAT under Part VIIA to the Secretary or a person
10 authorised by the Secretary; or
11 (b) the Secretary from communicating the reasons for a decision
12 of the SSAT under Part VIIA to a person authorised by the
13 Secretary.

14 (2AB) Subsection (2) does not prevent the Secretary, or a person
15 authorised by the Secretary, from publishing in written or
16 electronic form the reasons for a decision of the SSAT under
17 Part VIIA if the publication does not identify:

- 18 (a) a party to the proceedings concerned (other than the
19 Registrar); or
20 (b) a person (other than the Registrar) who is related to, or
21 associated with, a party to the proceedings concerned or is, or
22 is alleged to be, in any other way concerned in the matter to
23 which the proceedings concerned relate; or
24 (c) a witness in the proceedings concerned.

25 (2AC) Without limiting subsection (2AB), a publication of reasons for a
26 decision of the SSAT under Part VIIA is taken to identify a person
27 if it contains any particulars of:

- 28 (a) the name, title, pseudonym or alias of the person; or
29 (b) the address of any premises at which the person resides or
30 works, or the locality in which any such premises are
31 situated; or
32 (c) the physical description or the style of dress of the person; or
33 (d) any employment or occupation engaged in, profession
34 practised or calling pursued, by the person or any official or
35 honorary position held by the person; or
-

- 1 (e) the relationship of the person to identified relatives of the
2 person or the association of the person with identified friends
3 or identified business, official or professional acquaintances
4 of the person; or
5 (f) the recreational interests, or the political, philosophical or
6 religious beliefs or interests, of the person; or
7 (g) any real or personal property in which the person has an
8 interest or with which the person is otherwise associated;
9 and the particulars are sufficient to identify that person to a
10 member of the public, or to a member of the section of the public
11 to which the publication is disseminated, as the case requires.

12 **13 Application**

13 The amendment made by item 12 applies in relation to decisions of the
14 SSAT made before, on or after the commencement of that item.

1

2 **Part 3—Departure from assessments**

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

4 **14 Paragraph 80E(1)(d)**

5 Repeal the paragraph, substitute:

6 (d) either:

7 (i) it meets the conditions in subsection (2), (3) or (4), as
8 the case requires, (assuming the agreement is accepted
9 by the Registrar); or

10 (ii) it has been accepted by the Registrar under section 98U.

11 **15 Paragraph 98C(2)(b)**

12 Omit “and (3B)”, substitute “to (3C)”.

13 **16 After subsection 98U(1)**

14 Insert:

15 (1A) In working out whether an agreement is a limited child support
16 agreement for the purposes of subsection (1), disregard:

17 (a) paragraph 80E(1)(d); and

18 (b) subsections 80E(2) to (5).

19 **17 Subsection 98U(2)**

20 Repeal the subsection, substitute:

21 (2) For an agreement (other than a binding child support agreement),
22 the Registrar must not accept the agreement unless he or she is also
23 satisfied that it would be just and equitable, as regards the child,
24 the liable parent and the carer entitled to child support, to accept
25 the agreement.

26 **18 Paragraph 117(3A)(a)**

27 Omit “the carer entitled to child support”, substitute “a parent or a
28 non-parent carer”.

29 **19 Paragraph 117(3A)(b)**

30 Omit “period; and”, substitute “period.”.

1 **20 Paragraph 117(3A)(c)**

2 Repeal the paragraph.

3 **21 Subsection 117(3B)**

4 After “care costs”, insert “for a parent”.

5 **22 Paragraph 117(3B)(a)**

6 Omit “carer’s”, substitute “parent’s”.

7 **23 After subsection 117(3B)**

8 Insert:

9 (3C) Child care costs for a non-parent carer can only be high for the
10 purposes of subparagraph (2)(b)(ib) if, during a child support
11 period, they total at least 25% of the costs of the child for that
12 period.

13 **24 Paragraph 136(1)(a)**

14 After “section 92”, insert “or 98U”.

15 **25 At the end of section 146D**

16 Add:

17 (3) If:

- 18 (a) an application (the *original application*) is made under
19 section 98B in relation to an administrative assessment; and
20 (b) before the Registrar decides the application, the Registrar
21 accepts an agreement under section 98U that is entered into
22 by the parties to the proceedings concerned; and
23 (c) a provisional notional assessment is made because of
24 section 34B applying as mentioned in paragraph 98U(4)(a);
25 then the original application is taken to be an application made
26 under subsection (1) of this section.

27 **26 Application**

- 28 (1) The amendment made by item 15 applies in relation to applications to
29 the Registrar made on or after the commencement of that item.
- 30 (2) The amendments made by items 16 and 17 apply in relation to requests
31 made, after the commencement of those items, to the Registrar for
-

Schedule 3 Child support
Part 3 Departure from assessments

- 1 acceptance of agreements (regardless of whether the agreements are
2 made before, on or after the commencement of those items).
- 3 (3) The amendments made by items 18 to 23 apply in relation to
4 applications to a court made on or after the commencement of those
5 items.
- 6 (4) The amendment made by item 24 applies in relation to agreements
7 accepted before, on or after the commencement of that item.
- 8 (5) The amendment made by item 25 applies in relation to an agreement
9 accepted on or after the commencement of that item (regardless of
10 whether the agreement was made before, on or after that
11 commencement and regardless of whether the original application was
12 made before, on or after that commencement).

1

2 **Part 4—Terminating events**

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

4 **27 Subsection 12(2)**

5 Repeal the subsection, substitute:

6 (2) A child support terminating event happens in relation to a person
7 who is a carer entitled to child support in relation to a child if the
8 person dies.

9 **28 After subsection 12(2)**

10 Insert:

11 (2AA) A child support terminating event happens in relation to a child if:
12 (a) both of the parents of the child are not eligible carers of the
13 child; and
14 (b) there are no non-parent carers entitled to be paid child
15 support in relation to the child.

16 **29 Application**

17 The amendments made by items 27 and 28 apply in relation to a child
18 support terminating event that happens on or after the commencement
19 of those items.

1

2 **Part 5—Reducing rate of child support under**
3 **minimum annual rate assessments**

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

5 **30 Subsections 66A(1) to (3)**

6 Repeal the subsections, substitute:

7 (1) If the Registrar has made an assessment under section 66 in respect
8 of the annual rate of child support payable by a parent for all the
9 children in a child support case for a day in a child support period,
10 the Registrar may, on an application made by the parent that:

11 (a) is in accordance with the regulations; and

12 (b) either:

13 (i) nominates the whole (the *nominated period*) of that
14 child support period (if the first day of that child support
15 period is the day referred to in paragraph 66(4)(a)); or

16 (ii) nominates a part (the *nominated period*) of that child
17 support period, being a part that is at least 2 months and
18 that begins on or after the day referred to in paragraph
19 66(4)(a);

20 reduce the annual rate of child support payable by the parent for
21 those children for the nominated period to nil. This subsection is
22 subject to subsection (3C).

23 Note: If the Registrar refuses to grant an application under this section, the
24 Registrar must serve a notice on the applicant under section 66C.

25 (2) The Registrar must not grant an application under subsection (1)
26 unless the Registrar is satisfied that the amount worked out under
27 subsection (3) is less than the amount worked out under
28 subsection (3A).

29 (3) The amount for the purposes of this subsection is:

30
$$\frac{\text{Parent's income for the nominated period}}{\text{Number of days in the nominated period}} \times 365$$

31 (3A) The amount for the purposes of this subsection is:

1

2 **Part 6—Overseas liabilities**

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

4 **32 Section 35D**

5 Before “The annual”, insert “(1)”.

6 **33 At the end of section 35D**

7 Add:

8 (2) Subsection (1) does not apply if at least one of the parents is liable
9 to pay child support for a child under an administrative assessment
10 under the law of a reciprocating jurisdiction.

11 **34 Section 36A**

12 Before “The annual”, insert “(1)”.

13 **35 At the end of section 36A**

14 Add:

15 (2) For the purposes of paragraph (1)(b), a parent is taken to be
16 assessed in respect of the costs of another child in another child
17 support case if the parent is liable to pay child support for that
18 child under an administrative assessment under the law of a
19 reciprocating jurisdiction.

20 **36 Section 39**

21 Before “This is”, insert “(1)”.

22 **37 At the end of section 39**

23 Add:

24 (2) For the purposes of steps 4, 6 and 7 of the method statement in
25 subsection (1), a parent is taken to be assessed in respect of the
26 costs of another child who is in another child support case if the
27 parent is liable to pay child support for that child under an
28 administrative assessment under the law of a reciprocating
29 jurisdiction.

1 **38 Section 40**

2 Before “This is”, insert “(1)”.

3 **39 At the end of section 40**

4 Add:

- 5 (2) For the purposes of steps 4, 6 and 7 of the method statement in
6 subsection (1), a parent is taken to be assessed in respect of the
7 costs of another child who is in another child support case if the
8 parent is liable to pay child support for that child under an
9 administrative assessment under the law of a reciprocating
10 jurisdiction.

11 **40 Paragraph 40A(1)(b)**

12 Omit “section 39 or 40”, substitute “subsection 39(1) or 40(1)”.

13 **41 At the end of section 41**

14 Add:

15 *Administrative assessments under laws of reciprocating*
16 *jurisdictions*

- 17 (6) Subsection (1) or (2) does not apply if the parent is liable to pay
18 child support for a child under an administrative assessment under
19 the law of a reciprocating jurisdiction.
- 20 (7) For the purposes of paragraphs (3)(b) and (4)(b), a parent is taken
21 to be assessed in respect of the costs of another child in another
22 child support case if the parent is liable to pay child support for
23 that child under an administrative assessment under the law of a
24 reciprocating jurisdiction.

25 **42 At the end of section 55E**

26 Add:

- 27 (3) For the purposes of paragraph (1)(c), a parent is taken to be
28 assessed for a day in respect of the costs of another child who is in
29 another child support case if the parent is liable to pay child
30 support for that child for the day under an administrative
31 assessment under the law of a reciprocating jurisdiction.

32 **43 At the end of section 55G**

1 Add:

2 (7) For the purposes of paragraph (2)(b), a parent is taken to be
3 assessed in respect of the costs of another child who is in another
4 child support case if the parent is liable to pay child support for
5 that child under an administrative assessment under the law of a
6 reciprocating jurisdiction.

7 **44 At the end of section 55HA**

8 Add:

9 (7) For the purposes of paragraph (2)(b), a parent is taken to be
10 assessed in respect of the costs of another child who is in another
11 child support case if the parent is liable to pay child support for
12 that child under an administrative assessment under the law of a
13 reciprocating jurisdiction.

14 **45 After subsection 65A(4)**

15 Insert:

16 (4A) For the purposes of subsection (4), if a parent is liable to pay child
17 support for one or more children under an administrative
18 assessment under the law of a reciprocating jurisdiction, then that
19 child support is taken to be payable by the parent for those children
20 under subsection (1).

21 **46 After subsection 66(6)**

22 Insert:

23 (6A) For the purposes of subsection (6), if a parent is liable to pay child
24 support for one or more children for a day under an administrative
25 assessment under the law of a reciprocating jurisdiction, then the
26 parent is taken to be assessed for the day in respect of the costs of
27 children in a child support case.

28 **47 After subsection 66A(2)**

29 Insert:

30 (2A) For the purposes of subsection (2), a parent is taken to have a child
31 support case if the parent is liable to pay child support for one or
32 more children under an administrative assessment under the law of
33 a reciprocating jurisdiction.

1 **48 After subsection 76(2)**

2 Insert:

3 (2AA) For the purposes of paragraph (2)(d), a parent is taken to have a
4 child support case if the parent is liable to pay child support for one
5 or more children under an administrative assessment under the law
6 of a reciprocating jurisdiction.

7 **49 Application**

8 The amendments made by items 32 to 39 and 41 to 48 apply in relation
9 to administrative assessments made under laws of reciprocating
10 jurisdictions before, on or after the commencement of those items.

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

12 **50 Subparagraph 72D(1)(c)(ii)**

13 Omit “section 17A; and”, substitute “section 17A; or”.

14 **51 At the end of paragraph 72D(1)(c)**

15 Add:

16 (iii) one or more child support debts arising from a
17 registrable overseas maintenance liability under
18 subsection 18A(1), paragraph 18A(3)(a) or subsection
19 18A(4) (insofar as subsection 18A(4) relates to
20 subsection 18A(1) or paragraph 18A(3)(a)); and

21 **52 After paragraph 72D(2)(d)**

22 Insert:

23 (da) if subparagraph (1)(c)(iii) applies:

- 24 (i) the length of time for which the debts mentioned in that
25 subparagraph have remained unpaid after the day on
26 which they became due and payable; and
27 (ii) the number of occasions on which the debts mentioned
28 in that subparagraph had not been paid on or before the
29 day on which they became due and payable;

30 **53 Paragraph 72E(a)**

Schedule 3 Child support
Part 6 Overseas liabilities

1 After “17A”, insert “, subsection 18A(1), paragraph 18A(3)(a) or
2 subsection 18A(4) (insofar as subsection 18A(4) relates to subsection
3 18A(1) or paragraph 18A(3)(a)”.

4 **54 Application**

5 The amendments made by items 51 to 53 apply in relation to registrable
6 overseas maintenance liabilities arising before, on or after the
7 commencement of those items.

1

2 **Part 7—Crediting prescribed payments**

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

4 **55 After paragraph 71C(1)(b)**

5 Insert:

- 6 (ba) at the time the payment is made, the payer does not have at
7 least regular care of any of the children to whom the relevant
8 administrative assessment relates; and

9 **56 After subsection 71C(1)**

10 Insert:

- 11 (2) Subsection (1) does not apply in relation to a payment (the
12 ***prescribed payment***) mentioned in paragraph (1)(a) if:
13 (a) before the prescribed payment is made, the payer has
14 provided child support to the payee in the form of a lump
15 sum payment; and
16 (b) the lump sum payment has been credited, or will be credited,
17 under section 69A against all or part of the amount payable
18 under the enforceable maintenance liability in relation to the
19 day the prescribed payment is made.

20 **57 Application**

- 21 (1) The amendment made by item 55 applies in relation to payments made
22 on or after the commencement of that item.
- 23 (2) The amendment made by item 56 applies in relation to payments
24 mentioned in paragraph 71C(1)(a) of the *Child Support (Registration*
25 *and Collection) Act 1988* made on or after the commencement of that
26 item (regardless of whether the lump sum payment is made before, on
27 or after that commencement).