

2010-2011

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Child Support (Registration and
Collection) Amendment Bill 2011**

No. , 2011

(Human Services)

**A Bill for an Act to amend the *Child Support
(Registration and Collection) Act 1988*, and for
related purposes**

Contents

1	Short title.....	1
2	Commencement.....	1
3	Schedule(s).....	2
Schedule 1—Amendments		3
	<i>Child Support (Registration and Collection) Act 1988</i>	3

1 **A Bill for an Act to amend the *Child Support***
2 ***(Registration and Collection) Act 1988, and for***
3 **related purposes**

4 The Parliament of Australia enacts:

5 **1 Short title**

6 This Act may be cited as the *Child Support (Registration and*
7 *Collection) Amendment Act 2011*.

8 **2 Commencement**

9 This Act commences on the day after this Act receives the Royal
10 Assent.

1
2
3
4
5
6

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Child Support (Registration and Collection) Act 1988

1 After subsection 15(1A)

Insert:

(1B) Without limiting subsection (1) or (1A), the Registrar may, in writing, delegate all or any of his or her powers or functions under this Act to a person engaged (whether as an employee or otherwise) by:

- (a) the Registrar; or
- (b) an Agency (within the meaning of the *Public Service Act 1999*); or
- (c) another authority of the Commonwealth; or
- (d) an organisation that performs services for the Commonwealth.

2 Subsection 46(1) (penalty)

Repeal the penalty.

3 Subsections 46(1A) and (3)

Repeal the subsections.

4 Subsection 46(4)

Omit “less than the protected earnings amount”, substitute “less than the amount (the *protected earnings amount*) ascertained by applying the protected earnings rate to the period in relation to which the salary or wages are paid”.

5 After subsection 46(4)

Insert:

(4A) An employer commits an offence if:

- (a) the employer is required to make a deduction under subsection (1) in relation to an employee; and
- (b) the employer refuses or fails to make the deduction.

Penalty: 10 penalty units.

1 (4B) Subsection (4A) does not apply if the amount of the employee's
2 salary or wages is less than the protected earnings amount.

3 Note: A defendant bears an evidential burden in relation to the matter in
4 subsection (4B) (see subsection 13.3(3) of the *Criminal Code*).

5 (4C) An offence against subsection (4A) is an offence of strict liability.

6 Note: For strict liability, see section 6.1 of the *Criminal Code*.

7 **6 Subsection 46(5)**

8 Omit "subsection (1)", substitute "subsection (4A)".

9 **7 Subsection 46(8)**

10 Omit "subsections (3) and (4)", substitute "subsections (4) and (4B)".

11 **8 Subsections 47(1), (1A), (2) and (3) (penalty)**

12 Repeal the penalty.

13 **9 Subsection 47(3A)**

14 Repeal the subsection, substitute:

15 (3A) An employer commits an offence if:

16 (a) the employer is subject to a requirement under subsection (1);
17 and

18 (b) the employer refuses or fails to comply with the requirement.

19 Penalty: 50 penalty units, or 12 months imprisonment, or both.

20 (3B) An employer commits an offence if:

21 (a) the employer is subject to a requirement under
22 subsection (1A) or (2); and

23 (b) the employer refuses or fails to comply with the requirement.

24 Penalty: 10 penalty units.

25 (3C) An employer commits an offence if:

26 (a) the employer is subject to a requirement under subsection (3);
27 and

28 (b) the employer refuses or fails to comply with the requirement.

29 Penalty: 5 penalty units.

1 (3D) An offence against subsection (3B) or (3C) is an offence of strict
2 liability.

3 Note: For strict liability, see section 6.1 of the *Criminal Code*.

4 **10 Subsection 59(2)**

5 Omit “The records shall be kept”, substitute “An employer who is
6 required by subsection (1) to keep records must keep the records”.

7 **11 Subsections 59(3) and (4)**

8 Repeal the subsections, substitute:

9 (3) An employer commits an offence if:

10 (a) the employer is subject to a requirement under subsection (1)
11 or (2); and

12 (b) the employer refuses or fails to comply with the requirement.

13 Penalty: 20 penalty units.

14 (4) Subsection (3) does not apply if:

15 (a) the Registrar has notified the employer that the retention of
16 records under subsection (1) is not required; or

17 (b) the employer is a company that has gone into liquidation and
18 has been finally dissolved.

19 Note: A defendant bears an evidential burden in relation to the matter in
20 subsection (4) (see subsection 13.3(3) of the *Criminal Code*).

21 (5) An offence against subsection (3) is an offence of strict liability.

22 Note: For strict liability, see section 6.1 of the *Criminal Code*.

23 **12 Subsection 72W(1) (penalty)**

24 Repeal the penalty.

25 **13 Subsection 72W(2)**

26 Repeal the subsection, substitute:

27 (2) A person commits an offence if:

28 (a) an authorised officer requests under subsection (1) that the
29 person give a copy of a departure authorisation certificate to
30 the officer; and

31 (b) the person refuses or fails to comply with the request.

1 Penalty: 5 penalty units.

2 (3) An offence against subsection (2) is an offence of strict liability.

3 Note: For strict liability, see section 6.1 of the *Criminal Code*.

4 **14 Paragraph 121(1)(a)**

5 Repeal the paragraph, substitute:

6 (a) a person is convicted before a court of an offence against:

7 (i) subsection 47(3A) in relation to the refusal or failure of
8 the person to comply, in whole or in part, with the
9 requirement under paragraph 47(1)(b); or

10 (ii) subsection 120(3) in relation to the refusal or failure of
11 the person to comply, in whole or in part, with a
12 requirement referred to in that subsection; or

13 **15 Paragraph 121(1)(b)**

14 Omit “an offence against paragraph 47(1)(b) or subsection 120(3)”,
15 substitute “such an offence”.

16 **16 Subsection 121(1)**

17 Omit “in relation to the refusal or failure of the person to comply
18 (whether in whole or in part) with a requirement made by or under this
19 Act”.