

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

(As read a first time)

CHILD SUPPORT BILL 1987

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1987

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

Presented and read a first time, 9 December 1987

(Minister for Social Security)

A BILL

FOR

**An Act to make provision for the collection of certain
periodic maintenance payments, and for related purposes**

BE IT ENACTED by the Queen, and the Senate and the House of
Representatives of the Commonwealth of Australia, as follows:

PART I—PRELIMINARY

Short title

- 5 1. This Act may be cited as the *Child Support Act 1987*.

Commencement

2. This Act shall come into operation on a day to be fixed by
Proclamation.

Objects of Act

- 10 3. (1) The principal objects of this Act are to ensure:
 (a) that children receive from their parents the financial support that
 the parents are liable to provide; and

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- (b) that periodic amounts payable by non-custodial parents towards the maintenance of their children are paid on a regular and timely basis.

(2) It is the intention of the Parliament that this Act shall be construed and administered, to the greatest extent consistent with the attainment of its objects, to limit interferences with the privacy of persons.

Interpretation

4. (1) In this Act, unless the contrary intention appears:

“affecting event”, in relation to an enforceable maintenance liability, means any event the happening of which operates, under the terms and conditions of the relevant court order or maintenance agreement or otherwise by force of law, to vary or otherwise affect the liability or any of the particulars included in the entry in the Child Support Register in relation to the liability, and includes a terminating event in relation to the liability, but does not include:

- (a) the making by, or registration in, a court of an order; or
- (b) the registration in, or approval by, a court of a maintenance agreement;

“appealable refusal decision” means:

- (a) a decision under section 22 or subsection 24 (1) or 25 (2) refusing to register a registrable maintenance liability;
- (b) a decision under section 36 or 38, subsection 39 (2) or section 44 refusing to vary particulars entered in the Child Support Register;
- (c) a decision under section 71 refusing to credit an amount against a liability to the Commonwealth;
- (d) a decision under subsection 87 (1) refusing either to disallow an objection or allow it in whole or part; or
- (e) a decision of the Registrar resulting in the failure of the Registrar to collect an amount payable under an enforceable maintenance liability, being an amount that has become due and payable and remained unpaid for at least 6 months, where:
 - (i) proceedings have not been instituted in a court for recovery of the amount; or
 - (ii) proceedings have been instituted in a court for recovery of the amount and at least 3 months have elapsed since the proceedings were instituted;

“Australia” includes the external Territories;

“child of a marriage” has the same meaning as in Part VII of the *Family Law Act 1975*;

“child support debt” means an amount that is a debt due to the Commonwealth under section 30;

“child support enforcement period”, in relation to a registered maintenance liability, means:

- (a) the period commencing on the day on which the liability first becomes enforceable under this Act and ending on the day on which the liability first ceases to be so enforceable; and
- (b) if the liability ceases to be enforceable under this Act and again becomes so enforceable (whether on one occasion or more than one occasion)—each period commencing on a day on which the liability again becomes so enforceable and ending on the day on which the liability next ceases to be so enforceable;

“Child Support Register” means the Child Support Register established by this Act;

“closing day”, in relation to a month, means the day 9 days, or such lesser number of days as is prescribed for the purposes of this definition, before the first Wednesday in the following month;

“collection agency maintenance liability”, in relation to a State or Territory, means a liability:

- (a) that is a liability of:
 - (i) a parent of a child to pay a periodic amount for the maintenance of the child;
 - (ii) a step-parent of a child to pay a periodic amount for the maintenance of the child; or
 - (iii) a party to a marriage to pay a periodic amount for the maintenance of the other party to the marriage;
 whether or not the liability arises under a court order or court registered maintenance agreement; and
- (b) in relation to which collection or recovery action is being conducted by or under the control or supervision of, or that has been lodged for collection or recovery action by, an authority, or the person holding an office, established under the law of the State or Territory;

“Commissioner” means the Commissioner of Taxation;

“company” includes any body or association, corporate or unincorporate, but does not include a partnership;

“court order” means an order:

- (a) that was made by, or registered in, a court under the *Family Law Act 1975*, the *Matrimonial Causes Act 1959* or the law of a State or Territory; and
- (b) that has not been set aside or discharged and has not expired or otherwise ceased to be in force;

“court registered maintenance agreement” means a maintenance agreement:

- (a) that has been:

- (i) registered in, or approved by, a court under the *Family Law Act 1975*;
 - (ii) sanctioned by a court under paragraph 87 (1) (k) of the *Matrimonial Causes Act 1959*; or
 - (iii) registered in, or approved by, a court under the law of a State or Territory; 5
 - (b) that has not been set aside, and has not expired or otherwise ceased to be in force; and
 - (c) the registration, approval or sanction of which has not been revoked or cancelled, and that has not otherwise ceased to be in force; 10
- “decree” has the same meaning as in the *Family Law Act 1975*;
- “Deputy Commissioner” means a Deputy Commissioner of Taxation;
- “Deputy Registrar” means a Deputy Child Support Registrar;
- “employee” means an employee within the meaning of Division 2 of Part VI of the *Income Tax Assessment Act 1936* and, whether or not the Governor-General has entered into an arrangement in accordance with section 221B of that Act with the Governor in Council of the State concerned, includes a member of the Parliament of a State and a person employed by a State or an authority of a State; 15 20
- “employer” means an employer within the meaning of Division 2 of Part VI of the *Income Tax Assessment Act 1936* and, whether or not the Governor-General has entered into an arrangement in accordance with section 221B of that Act with the Governor in Council of the State concerned, includes a State and an authority of a State; 25
- “enforceable maintenance liability” means a registered maintenance liability that is enforceable under this Act;
- “Family Court” means the Family Court of Australia;
- “Family Court of a State” means a court to which section 41 of the *Family Law Act 1975* applies; 30
- “*Family Law Act 1975*” includes the regulations and Rules of Court made under that Act;
- “Full Court” has the same meaning as in the *Family Law Act 1975*;
- “government body” means the Commonwealth, a State, a Territory or an authority of the Commonwealth or a State or Territory; 35
- “income tested pension, allowance or benefit” has the same meaning as in the *Family Law Act 1975*;
- “Judge” means a Judge of the Family Court (including the Chief Judge or a Senior Judge); 40
- “maintenance agreement” means an agreement in writing (whether made within or outside Australia) that makes provision in relation to the maintenance of a child or a party to a marriage (whether or not it also makes provision in relation to other matters), and includes such an agreement that varies an earlier maintenance agreement; 45

"*Matrimonial Causes Act 1959*" includes the rules made under that Act;

"modifications" includes additions, omissions and substitutions;

"order" includes:

- 5 (a) an interim order; and
- (b) an order (including an interim order) made under the law of a foreign country;

"party to a marriage" has the same meaning as in Part VIII of the *Family Law Act 1975*;

10 "payee", in relation to a registrable maintenance liability, means the person who is entitled, or would but for the registration of the liability under this Act be entitled, to receive payments under the liability;

15 "payer", in relation to a registrable maintenance liability, means the person who is liable to make payments under the liability;

"periodic amount" means a weekly, monthly, yearly or other periodic amount;

"person" includes a company;

20 "protected earnings rate" means a weekly rate prescribed for the purposes of this definition;

"registered maintenance liability" means a registrable maintenance liability that is registered under this Act;

"registrable maintenance liability" means a liability that is, under section 17 or 18, a registrable maintenance liability;

25 "Registrar" means the Child Support Registrar;

"Rules of Court" has the same meaning as in the *Family Law Act 1975*;

"salary or wages" means:

- (a) salary or wages within the meaning of Division 2 of Part VI of the *Income Tax Assessment Act 1936* other than:
 - 30 (i) payments of an income tested pension, allowance or benefit; or
 - (ii) payments prescribed, or included in a class of payments prescribed, for the purposes of this paragraph; and
- 35 (b) payments prescribed, or included in a class of payments prescribed, for the purposes of this paragraph;

"Second Commissioner" means a Second Commissioner of Taxation;

"Secretary" means the Secretary to the Department of Social Security;

"step-parent" has the same meaning as in Part VII of the *Family Law Act 1975*;

40 "terminating event", in relation to an enforceable maintenance liability, means:

- (a) the death of the payer unless, under the terms and conditions of the relevant court order or maintenance agreement or

otherwise by force of law, the liability is to continue after the death of the payer;

(b) the death of the person to whose maintenance the liability relates;

(c) in a case where the liability relates to the maintenance of a child—the happening of any of the following events: 5

(i) the child attaining 18 years of age unless, under the terms and conditions of the relevant court order or maintenance agreement or otherwise by force of law, the liability is to continue after the child attains that age; 10

(ii) the adoption or marriage of the child unless, under the terms and conditions of the relevant court order or maintenance agreement or otherwise by force of law, the liability is to continue after the adoption or marriage of the child; 15

(d) in a case where the liability relates to the maintenance of a party to a marriage—the re-marriage of the person unless, under the terms and conditions of the relevant court order or maintenance agreement or otherwise by force of law, the liability is to continue after the re-marriage of the person; or 20

(e) any other event the happening of which operates, under the terms and conditions of the relevant court order or maintenance agreement or otherwise by force of law, to end the liability; 25

but does not include:

(f) the making by, or registration in, a court of an order; or

(g) the registration in, or approval by, a court of a maintenance agreement;

“this Act” includes the regulations; 30

“transferred maintenance liability” means a collection agency maintenance liability that has, under arrangements made under section 20 or 21, been transferred to the Child Support Register;

“Tribunal” means the Administrative Appeals Tribunal;

“Trust Account” means the Child Support Trust Account established by this Act; 35

“trustee” includes:

(a) a person appointed or constituted trustee by act of parties, by order or declaration of a court, or by operation of law;

(b) an executor, administrator or other personal representative of a deceased person; 40

(c) a guardian or committee;

(d) a receiver or receiver and manager;

(e) an official manager or liquidator of a company; or

(f) a person:

- (i) having or taking on himself or herself the administration or control of any real or personal property affected by any express or implied trust;
- (ii) acting in any fiduciary capacity; or
- (iii) having the possession, control or management of any real or personal property of a person under any legal or other disability;

“vary”, in relation to the particulars entered in the Child Support Register in relation to a registered maintenance liability, includes the addition of a particular, and the omission of a particular and the substitution of another particular;

“weekly deduction rate”, in relation to an enforceable maintenance liability, means the weekly rate of payment specified in the particulars of the entry in the Child Support Register in relation to the liability.

(2) A reference in a provision of this Act to an approved form is a reference to a form published by the Registrar in the *Gazette* for the purposes of the provision.

(3) A reference in this Act to the payer or payee of a registrable maintenance liability is, in relation to an entry in the Child Support Register that does not relate to a registrable maintenance liability, a reference to the person named in the entry as payer or payee, as the case requires.

(4) Where:

(a) the Registrar is required, under a provision of this Act referred to in paragraph (a), (b) or (d) of the definition of “appealable refusal decision” in subsection (1), to do an act within a specified period; and

(b) the Registrar does not either do that act or refuse to do that act; the Registrar shall, for the purposes of that definition, be deemed:

(c) in a case where the Registrar within that period, by notice in writing served on a person, requires the person to provide information necessary to the Registrar to make a decision to do or refuse to do that act—at the end of the period of 28 days after the receipt by the Registrar of the information; or

(d) in any other case—at the end of that period; to have refused to do that act.

Extension and application of Act in relation to maintenance of children

5. (1) Subject to subsections (4) and (5), this Act in so far as it relates to the maintenance of children extends to New South Wales, Victoria, South Australia and Tasmania.

(2) If:

- (a) the Parliament of Queensland or Western Australia refers to the Parliament of the Commonwealth the matter of the maintenance of children or matters that include, or are included in, that matter; or
- (b) Queensland or Western Australia adopts this Act in so far as it relates to the maintenance of children;

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then, subject to subsections (4) and (5), this Act in so far as it relates to the maintenance of children also extends to Queensland or Western Australia, as the case may be.

(3) This Act in so far as it relates to the maintenance of children applies in and in relation to the Territories.

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(4) This Act extends to a State by virtue of subsection (1) or (2) only for so long as there is in force:

- (a) an Act of the Parliament of the State by which there is referred to the Parliament of the Commonwealth:
 - (i) the matter of the maintenance of children; or
 - (ii) matters that include or are included in that matter; or
- (b) a law of the State adopting this Act in so far as it applies in relation to the maintenance of children.

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(5) This Act extends to a State at any time by virtue of subsection (1) or paragraph (2) (a) only in so far as it makes provision with respect to:

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- (a) the matters that are at that time referred to the Parliament of the Commonwealth by the Parliament of the State; or
- (b) matters incidental to the execution of any power vested by the Constitution of the Parliament of the Commonwealth in relation to those matters.

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Additional application of Act in relation to maintenance of children

6. (1) Without prejudice to its effect apart from this section, this Act in so far as it relates to the maintenance of children also has effect as provided by this section.

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(2) By virtue of this subsection, the provisions of this Act (other than subparagraph (a) (ii) of the definition of "collection agency maintenance liability" in subsection 4 (1) or subparagraph 17 (a) (ii)) in so far as they relate to the maintenance of children have the effect that they would have if:

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- (a) each reference to a child were, by express provision, confined to a child of a marriage; and
- (b) each reference to the parents of the child were, by express provision, confined to the parties to the marriage;

and have that effect only in so far as they make provision with respect to the rights and duties of the parties to the marriage in relation to the child, including, without limiting the generality of the foregoing, provision with respect to the rights and duties of those parties in relation to the maintenance of the child.

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Corresponding State laws

5 7. (1) Where the Minister is satisfied that a law of a State relating to the collection of periodic amounts payable for the maintenance of children makes adequate and appropriate provision for the collection of those amounts on a regular and timely basis, the Minister may, by notice published in the *Gazette*, declare the law to be a corresponding State law for the purposes of this section.

10 (2) If at any time the Minister becomes satisfied that the State law no longer makes adequate and appropriate provision for the collection of periodic amounts payable for the maintenance of children on a regular and timely basis, the Minister may, by notice published in the *Gazette*, revoke the declaration of the law as a corresponding State law for the purposes of this section.

15 (3) It is the intention of the Parliament that the Registrar, the Secretary and the Tribunal should have and be subject to the powers, functions, rights, liabilities and duties conferred or imposed on the Registrar, the Secretary or the Tribunal, as the case may be, by a corresponding State law that are additional to those conferred or imposed by this Act.

Act to bind Crown

20 8. (1) This Act binds the Crown in right of the Commonwealth and of each of the States, the Northern Territory and Norfolk Island.

(2) Nothing in this Act renders the Crown in right of the Commonwealth or of a State, the Northern Territory or Norfolk Island liable to be prosecuted for an offence.

25 **External Territories**

9. (1) This Act extends to each of the external Territories.

(2) This Act applies in relation to an external Territory to which the *Family Law Act 1975* does not extend with such modifications as are prescribed.

30 **PART II—ADMINISTRATION**

Child Support Registrar

10. (1) There shall be a Child Support Registrar.

(2) The Commissioner of Taxation shall be the Registrar.

Registrar to have general administration of Act

35 11. The Registrar has the general administration of this Act.

Deputy Child Support Registrars

12. (1) There shall be Deputy Child Support Registrars.

(2) Each Deputy Commissioner of Taxation shall be a Deputy Registrar.

Child Support Register

13. (1) The Registrar shall keep a register, to be known as the Child Support Register.

(2) The Child Support Register shall be kept in such form (whether or not in a documentary form) as the Registrar considers appropriate.

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Annual report

14. (1) The Registrar shall, as soon as practicable after 30 June in each year, prepare and furnish to the Minister a report on the working of this Act.

(2) The Minister shall cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.

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(3) For the purposes of section 34C of the *Acts Interpretation Act 1901*, a report that is required by subsection (1) to be furnished as soon as practicable after 30 June in a year shall be taken to be a periodic report relating to the working of this Act during the year ending on that 30 June.

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Delegation

15. (1) The Registrar may, in writing, delegate to a Deputy Registrar, or the person occupying a specified office in the branch of the Australian Public Service under the direct control of the Registrar (whether as Registrar or Commissioner), all or any of the Registrar's powers or functions under this Act.

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(2) A delegation under subsection (1) may be made subject to a power of review and alteration by the Registrar, within a period specified in the instrument of delegation, of acts done under the delegation.

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(3) A delegation under subsection (1) continues in force even though there has been a change in the occupancy of, or there is a vacancy in, the office of Registrar, but, for the purposes of the application of subsection 33 (3) of the *Acts Interpretation Act 1901* in relation to such a delegation, nothing in any law shall be taken to preclude the revocation or variation of the delegation by the same or a subsequent holder of the office.

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Secrecy

16. (1) In this section, "officer" means a person:

(a) who is or has been appointed or employed by the Commonwealth; or

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(b) to whom powers or functions have been delegated by the Registrar; and who, by reason of the appointment or employment or in the course of the employment, or by reason of, or in the course of the exercise of powers or the performance of functions under, the delegation, as the case may be, may acquire or has acquired information in relation to the affairs of any other person disclosed or obtained under or for the purposes of this Act.

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(2) For the purposes of this section, a person who, although not appointed or employed by the Commonwealth, performs services for the Commonwealth shall be taken to be employed by the Commonwealth.

(3) Subject to subsection (5), an officer who, either directly or indirectly, except for the purposes of this Act or otherwise than in the performance of the person's duties as an officer, and either while the person is, or after the person ceases to be, an officer:

(a) makes a record of any information in relation to the affairs of a second person; or

(b) divulges or communicates to a second person any information in relation to the affairs of a third person;

being information disclosed or obtained under or for the purposes of this Act and acquired by the person by reason of the person's appointment or employment by the Commonwealth or in the course of such employment, or by reason of the delegation to the person of powers or functions by the Registrar, or in the course of the exercise of such powers or performance of such functions, as the case may be, is guilty of an offence punishable on conviction by a fine not exceeding \$5,000 or imprisonment for a period not exceeding one year, or both.

(4) Except when it is necessary to do so for the purpose of carrying into effect the provisions of this Act, an officer shall not be required:

(a) to produce in court any document made or given under or for the purposes of this Act; or

(b) to divulge or communicate to a court a matter or thing in relation to information disclosed or obtained under or for the purposes of this Act;

being a document or information acquired by the person by reason of the person's appointment or employment by the Commonwealth or in the course of such employment, or by reason of the delegation to the person of powers or functions by the Registrar, or in the course of the exercise of such powers or the performance of such functions, as the case may be.

(5) Nothing in subsection (3) shall be taken to prohibit the Registrar, a Deputy Registrar, or a person authorised by the Registrar or a Deputy Registrar, from communicating any information:

(a) to the Tribunal in connection with proceedings under an Act of which the Registrar (whether as Registrar or Commissioner) has the general administration;

(b) to the Secretary to the Department of Social Security or the Secretary to the Department of Veterans' Affairs for the purpose of the administration of any law of the Commonwealth relating to pensions, allowances or benefits; or

(c) to a person performing, as an officer, duties arising under an Act of which the Registrar (whether as Registrar or Commissioner) has the general administration, or under regulations made under such an Act, for the purpose of enabling the person to perform those duties.

(6) Nothing in an Act of which the Commissioner has the general administration shall be taken to prohibit the Commissioner, a Second Commissioner, a Deputy Commissioner, or a person authorised by the Commissioner, a Second Commissioner or a Deputy Commissioner, from communicating any information to a person performing, as an officer, duties arising under this Act for the purpose of enabling the person to perform those duties. 5

(7) For the purposes of subsection (3), an officer shall be deemed to have communicated information to another person in contravention of that subsection if the officer communicates the information to any Minister. 10

(8) An officer shall, if and when required by the Registrar or a Deputy Registrar to do so, make an oath or declaration, in a manner and form specified by the Registrar in writing, to maintain secrecy in accordance with the provisions of this section.

(9) This section has effect subject to subsection 64 (11B) of the *Family Law Act 1975*. 15

PART III—REGISTRATION OF MAINTENANCE LIABILITIES

Division 1—Registrable maintenance liabilities

Liabilities in relation to children that are registrable maintenance liabilities 20

17. Subject to section 19, a liability is a registrable maintenance liability if:

- (a) it is a liability of:
 - (i) a parent of a child to pay a periodic amount for the maintenance of the child; or 25
 - (ii) a step-parent of a child to pay a periodic amount for the maintenance of the child; and
- (b) either of the following subparagraphs applies:
 - (i) it arises under a court order or court registered maintenance agreement; 30
 - (ii) it is a collection agency maintenance liability.

Liabilities in relation to parties to marriages that are registrable maintenance liabilities

18 Subject to section 19, a liability is a registrable maintenance liability if: 35

- (a) it is a liability of a party to a marriage to pay a periodic amount for the maintenance of the other party to the marriage; and
- (b) either of the following subparagraphs applies:
 - (i) it arises under a court order or court registered maintenance agreement; 40
 - (ii) it is a collection agency maintenance liability.

Exclusion of liabilities by regulation

19. (1) The regulations may provide that specified liabilities, or liabilities included in specified classes of liabilities, are not registrable maintenance liabilities.

5 (2) Without limiting the generality of subsection (1), the regulations may:

- (a) make different provision for the purposes of section 17 or 18; and
- (b) specify liabilities, or a class of liabilities, by reference to all or any of the following:

10 (i) when the orders or agreements under which the liabilities arose were made, registered, approved or sanctioned, as the case may be;

(ii) characteristics of the persons to whom the liabilities relate, including:

15 (A) if those persons are children, their dates of birth and, if applicable, when their parents separated;

(B) if those persons are not children, their ages and whether or not they are in receipt of an income tested pension, allowance or benefit;

20 (iii) whether or not the liabilities are collection agency maintenance liabilities of a State or Territory;

(iv) whether or not the liabilities arose under orders made under section 66K or 77 of the *Family Law Act 1975*.

Division 2—Registration of maintenance liabilities

25 **Arrangements with States, Northern Territory and Norfolk Island for transfer of liabilities**

20. The Governor-General may make arrangements with the Governor of a State or the Administrator of the Northern Territory or Norfolk Island for the transfer to the Child Support Register of collection agency maintenance liabilities of the State or Territory.

Arrangements in relation to Territories (other than the Northern Territory or Norfolk Island) for transfer of liabilities

21. The Registrar may make arrangements for the transfer to the Child Support Register of collection agency maintenance liabilities of a Territory (other than the Northern Territory or Norfolk Island).

Registrar to register transferred liabilities in Child Support Register

22. Where, under arrangements made under section 20 or 21, a collection agency maintenance liability is transferred to the Child Support Register, the Registrar shall, within 28 days after the transfer of the liability, register

the liability under this Act by entering particulars of liability in the Child Support Register.

Payer and payee to notify Registrar when registrable maintenance liability arises etc.

23. (1) This section applies where: 5

(a) under the *Family Law Act 1975* or the law of a Territory:

- (i) an order is made by, or registered in, a court; or
- (ii) a maintenance agreement is registered in, or approved by, a court; and

(b) either of the following subparagraphs applies: 10

- (i) a registrable maintenance liability arises under the order or agreement;
- (ii) the order or agreement varies or otherwise affects a registrable maintenance liability that is not registered under this Act.

(2) The payee of the registrable maintenance liability shall, within 14 days after the day (in subsection (5) called the "relevant day") on which the order is made by, or registered in, the court or the agreement is registered in, or approved by, the court, furnish to the Registrar a duly completed approved form in relation to the order or agreement. 15

(3) Subject to subsection (4), the payee is not required to furnish the form to the Registrar if the payee, within that period of 14 days, elects, by furnishing a duly completed approved form to the Registrar, not to have the registrable maintenance liability enforced under this Act. 20

(4) The payee may not make an election under subsection (3) if the payee is in receipt of an income tested pension, allowance or benefit. 25

(5) Subject to subsection (6), the payer of the registrable maintenance liability shall, within 14 days after the relevant day, furnish to the Registrar a duly completed approved form in relation to the order or agreement.

(6) The payer is not required to furnish the form to the Registrar if the payee elects under subsection (3) not to have the registrable maintenance liability enforced under this Act. 30

(7) A person who contravenes subsection (2) or (5) is guilty of an offence punishable on conviction by a fine not exceeding \$1,000.

(8) It is a defence to a prosecution for an offence against subsection (7) if the person charged proves that the person furnished the relevant form to the Registrar as soon as reasonably practicable after becoming aware of the making or registration of the relevant order or of the registration or approval of the relevant maintenance agreement, as the case may be. 35

Registrar to register liability in Child Support Register on receipt of notification etc.

24. (1) Where the Registrar receives under subsection 23 (2) a duly completed approved form from the payee of a registrable maintenance liability, the Registrar shall, within 28 days after receipt of the duly completed form, register the liability under this Act by entering particulars of the liability in the Child Support Register.

(2) Where the payee of a registrable maintenance liability who is required by subsection 23 (2) to furnish to the Registrar a duly completed approved form fails to do so within the period specified in that subsection, the Registrar shall, even though the form has not been furnished, register the liability under this Act by entering particulars of the liability in the Child Support Register.

Application for registration of registrable maintenance liability

25. (1) The payee of a registrable maintenance liability that is not registered under this Act may apply to the Registrar, in the approved form, for the registration of the liability under this Act.

(2) Subject to subsection (3), where the Registrar receives under subsection (1) a duly completed approved form from the payee of a registrable maintenance liability, the Registrar shall, within 28 days after receipt of the duly completed form, register the liability under this Act by entering particulars of the liability in the Child Support Register.

(3) The Registrar shall not, under subsection (2), register the liability under this Act if the payee has furnished, or is required to furnish, a duly completed form to the Registrar under subsection 23 (2) in relation to the liability.

(4) The regulations may provide that this section applies in relation to collection agency maintenance liabilities only if specified conditions or restrictions are complied with or only in specified circumstances.

Particulars of liability to be entered in Child Support Register

26. (1) The entry in the Child Support Register in relation to a registered maintenance liability shall include:

- (a) the name of the payer;
- (b) the name of the payee;
- (c) particulars of the court order or maintenance agreement under which the liability arose and each court order and maintenance agreement varying or otherwise affecting the first-mentioned order or agreement, being particulars that are, in the opinion of the Registrar, sufficient to adequately identify the basis of the liability;
- (d) the name and date of birth of each child to whose maintenance the entry relates;
- (e) the name of any other person to whose maintenance the entry relates;

- (f) the periodic amount, or the aggregate of the periodic amounts, payable by the payer in relation to the entry;
- (g) in a case where the entry relates to the maintenance of 2 or more persons—the periodic amount attributable to each of them;
- (h) the period at which amounts are payable under the liability; 5
- (j) the day on which the liability first becomes enforceable under this Act;
- (k) in a case where the liability ceases to be enforceable under this Act (whether on one occasion or more than one occasion)—each day on which the liability ceases to be so enforceable; 10
- (m) in a case where the liability ceases to be enforceable under this Act and again becomes so enforceable (whether on one occasion or more than one occasion)—each day on which the liability again becomes enforceable under this Act;
- (n) particulars of any suspension of the liability; and 15
- (p) particulars of any terms and conditions of the court order or agreement that the Registrar considers necessary or desirable to include in the entry to ensure that all the terms and conditions of the order or agreement relating to the liability are fully given effect to under this Act. 20

(2) The entry in the Child Support Register in relation to a registered maintenance liability may also include:

- (a) the daily, weekly or monthly rate of payment in relation to the periodic amount, or the aggregate of the periodic amounts, payable by the payer in relation to the entry; 25
- (b) a statement of whether or not automatic withholding applies in relation to the liability; and
- (c) such other matters as the Registrar considers necessary or desirable to be included in the Child Support Register.

Single entry in relation to all liabilities with same payer and payee 30

27. Where the payer and payee of a registrable maintenance liability are the same as the payer and payee of another registrable maintenance liability (whether or not the liabilities arise under the same court order or maintenance agreement and whether or not the liabilities are in relation to the maintenance of the same person), the Registrar may include particulars of the liabilities in the same entry in the Child Support Register. 35

Day on which liability first becomes enforceable under Act

28. A registered maintenance liability first becomes enforceable under this Act on whichever of the following days is applicable in relation to the liability: 40

- (a) if the liability is a transferred maintenance liability—the day on which the liability is transferred to the Child Support Register;

(b) if the liability is registered under section 24—the day on which the liability arose under, or was varied or otherwise affected by, the court order or maintenance agreement by virtue of which the liability is registered under that section;

5 (c) if the liability is registered under subsection 25 (2)—such day as is determined, in writing, by the Registrar (being a day not later than 60 days after the day on which the Registrar receives, under subsection 25 (1), the relevant duly completed form from the payee of the liability).

10 **Conversion of amounts payable under registrable maintenance liability into daily rates etc.**

29. The regulations may make provision with respect to the conversion of amounts payable under registrable maintenance liabilities into daily, weekly and monthly rates of payment.

15 **Effect of registration**

30. Where a registrable maintenance liability is registered under this Act:

(a) amounts payable under the liability in relation to the child support enforcement period are debts due by the payer to the Commonwealth in accordance with the particulars of the liability entered in the Register; and

20 (b) the payee is not entitled to, and may not enforce payment of, those amounts.

Effect of registration on existing garnishment and attachment of earnings orders

25 31. Where, on the day on which a registered maintenance liability first becomes enforceable under this Act or again becomes enforceable under this Act, a garnishment or attachment of earnings order made by a court under the *Family Law Act 1975*, the *Matrimonial Causes Act 1959* or the law of a State or Territory is in force in relation to the liability, the order ceases

30 to have effect in so far as it relates to amounts payable under the liability in relation to the child support enforcement period.

Payer and payee to be given copy of entry in Child Support Register on request

35 32. (1) The payer or payee of a registered maintenance liability may, in the approved form, request the Registrar to provide a copy of the entry in the Child Support Register in relation to the liability.

(2) The Registrar shall comply with the request.

Division 3—Variations to entries in Child Support Register

40 **Payee to notify Registrar of court order varying registered maintenance liability etc.**

33. (1) Where:

(a) under the *Family Law Act 1975* or the law of a Territory:

- (i) an order is made by, or registered in, a court; or
- (ii) a maintenance agreement is registered in, or approved by, a court; and

- (b) the order or agreement varies or otherwise affects a registered maintenance liability (other than a registered maintenance liability that is not enforceable under this Act because of an election made under section 38); 5

the payee of the registered maintenance liability shall, within 14 days after the day on which the order is made by, or registered in, the court or the agreement is registered in, or approved by, the court, furnish to the Registrar a duly completed approved form in relation to the order or agreement. 10

(2) A person who contravenes subsection (1) is guilty of an offence punishable on conviction by a fine not exceeding \$1,000.

(3) It is a defence to a prosecution for an offence against subsection (2) if the person charged proves that the person furnished the relevant form to the Registrar as soon as reasonably practicable after becoming aware of the making or registration of the relevant order or of the registration or approval of the relevant maintenance agreement, as the case may be. 15

Payee to notify Registrar of happening of affecting event

34. (1) The payee of an enforceable maintenance liability shall, within 14 days after the happening of an affecting event in relation to the liability (other than, in a case where the liability relates to the maintenance of a child, the child attaining 18 years of age), notify the Registrar of the affecting event by furnishing a duly completed approved form to the Registrar. 20 25

(2) A person who contravenes subsection (1) is guilty of an offence punishable on conviction by a fine not exceeding \$1,000.

(3) It is a defence to a prosecution for an offence against subsection (2) if the person charged proves that the person notified the Registrar of the happening of the relevant affecting event as soon as reasonably practicable after becoming aware of the happening of the event. 30

Payer may apply to Registrar for variation of Child Support Register

35. (1) The payer of a registered maintenance liability may apply to the Registrar, in the approved form, for the variation of particulars entered in the Child Support Register in relation to the liability to enable a court order or court registered maintenance agreement that varies or otherwise affects the liability to be given effect to under this Act. 35

(2) The payer of an enforceable maintenance liability may apply to the Registrar, in the approved form, for the variation of particulars entered in the Child Support Register in relation to the liability to take account of the happening of an affecting event in relation to the liability. 40

Registrar to vary Child Support Register on receipt of notification or application

5 36. Where the Registrar receives under subsection 33 (1), 34 (1) or
35 (1) or (2) a duly completed approved form from the payee or payer of
a registrable maintenance liability, the Registrar shall, within 28 days after
receipt of the duly completed form, make such variations (if any) to the
particulars entered in the Child Support Register in relation to the liability
as the Registrar considers necessary or desirable to enable the relevant order
or maintenance agreement to be given effect to under this Act or to take
10 account of the happening of the relevant affecting event, as the case requires.

Registrar may vary Child Support Register to give effect to court order etc.

15 37. Where the Registrar is of the opinion (otherwise than because of
the receipt of an approved form under subsection 33 (1), 34 (1) or 35 (1)
or (2)):

- (a) that, under the *Family Law Act 1975* or the law of a State or Territory:
 - (i) an order has been made by, or registered in, a court; or
 - (ii) a maintenance agreement has been registered in, or approved
20 by, a court;and the order or agreement varies or otherwise affects a registered
maintenance liability; or
 - (b) that an affecting event in relation to an enforceable maintenance
liability has happened;
- 25 the Registrar shall make such variations (if any) to the particulars entered
in the Child Support Register in relation to the liability as the Registrar
considers necessary or desirable to enable the order or agreement to be given
effect to under this Act or to take account of the happening of the event,
as the case may be.

30 Election to have enforceable maintenance liability no longer enforced under Act

35 38. Where the payee of an enforceable maintenance liability who is not
in receipt of an income tested pension, allowance or benefit elects, by
furnishing a duly completed approved form to the Registrar, to have the
liability no longer enforced under this Act, the Registrar shall, within 28
days after receipt of the duly completed form:

- (a) vary the particulars entered in the Child Support Register in relation
to the liability by specifying a day (being a day not later than 60
days after the day on which the Registrar receives the form) as the
day on which the liability ceases to be enforceable under this Act
40 (in paragraph (b) called the "terminating day"); and
- (b) if the payee, in that form, elects to have amounts payable under
the liability in relation to the child support enforcement period that
are unpaid on the terminating day also no longer enforced under

this Act—make such variations to those particulars as the Registrar considers necessary or desirable to ensure that, in spite of section 30, those amounts cease to be debts due by the payer to the Commonwealth.

Application for variation to enable liability to again become enforceable under Act 5

39. (1) Where a registered maintenance liability is not enforceable under this Act because of an election made by the payee under section 38, the payee may apply to the Registrar, in the approved form, for the liability to again become enforceable under this Act. 10

(2) Where the Registrar receives under subsection (1) a duly completed approved form from the payee of a registered maintenance liability, the Registrar:

- (a) shall, within 28 days after receipt of the duly completed form, vary the particulars entered in the Child Support Register in relation to the liability by specifying a day (being a day not later than 60 days after the day on which the Registrar receives the form) as the day on which the liability again becomes enforceable under this Act; and 15
- (b) may make such variations (if any) to those particulars as the Registrar considers necessary or desirable: 20
 - (i) to enable a court order or court registered maintenance agreement that varies or otherwise affects the liability to be given effect to under this Act; or
 - (ii) to take account of the happening of an affecting event in relation to the liability. 25

Entry wrongly existing in Child Support Register

40. Where the Registrar is satisfied that an entry wrongly exists in the Child Support Register, the Registrar shall delete the entry from the Child Support Register. 40

Obsolete entries in Child Support Register

41. Where the Registrar is satisfied (whether because of the happening of a terminating event in relation to an enforceable maintenance liability or the length of time that has elapsed since a registered maintenance liability was an enforceable maintenance liability) that the entry in the Child Support Register in relation to the liability is obsolete, the Registrar may delete the entry from the Child Support Register. 35

Correction of clerical errors and other mistakes in Child Support Register

42. Where the Registrar is satisfied that a clerical error or other mistake exists in particulars entered in the Child Support Register in relation to a registered maintenance liability, the Registrar may vary the particulars for the purpose of correcting the error or mistake. 40

**PART IV—COLLECTION BY DEDUCTION FROM
SALARY OR WAGES**

Division 1—Automatic withholding

General rule of collection by automatic withholding in case of employees

5 **43. (1)** Subject to subsection (2), where the payer of an enforceable maintenance liability is during any period an employee, the Registrar shall, as far as practicable, collect amounts due to the Commonwealth under the liability in relation to the period by deduction from the salary or wages of the payer under this Part.

10 **(2)** Subsection (1) applies in relation to an enforceable maintenance liability whether or not the particulars in the entry in the Child Support Register in relation to the liability contain a statement that automatic withholding applies in relation to the liability, but does not apply in relation to the liability if, by virtue of section 44, the particulars contain a statement
15 that automatic withholding does not apply in relation to the liability.

Cases in which automatic withholding not applicable

20 **44. (1)** Where the payer of a registrable maintenance liability that arose before the commencement of this Act elects, by furnishing a duly completed approved form to the Registrar, that automatic withholding is not to apply in relation to the liability, the Registrar shall:

25 (a) in a case where the form is received by the Registrar before the registration of the liability—include in the particulars of the entry in the Child Support Register in relation to the liability a statement that automatic withholding does not apply in relation to the liability; and

 (b) in any other case—vary those particulars, within 28 days after receipt of the duly completed form, so that they contain such a statement.

30 **(2)** Where, in proceedings in relation to the maintenance of a child or a party to a marriage or in proceedings for an order under this subsection, a court having jurisdiction under this Act is satisfied:

35 (a) that the payer of a registrable maintenance liability would be likely to make regular and timely payments to the Registrar under the liability if the payments were not collected by deduction from the salary and wages of the payer under this Part; and

 (b) that the special circumstances of the particular case make it undesirable, on the ground of personal privacy, that payments due under the liability should be collected by deduction from the salary or wages of the payer under this Part;

40 the court may, by order, direct that automatic withholding is not to apply in relation to the liability.

(3) Where proceedings are instituted in a court having jurisdiction under this Act for an order under subsection (2) in relation to a registrable

maintenance liability, the court may, by order, direct that, pending disposal of the proceedings, automatic withholding is not to apply in relation to the liability.

(4) Where:

- (a) a court makes an order under subsection (2) or (3) in relation to a registrable maintenance liability; and 5
- (b) the payer of the registrable maintenance liability furnishes a certified or sealed copy of the order to the Registrar;

the Registrar shall:

- (c) in a case where the copy of the order is received by the Registrar before the registration of the liability—include in the particulars of the entry in the Child Support Register in relation to the liability a statement that automatic withholding does not apply in relation to the liability; and 10
- (d) in any other case—vary those particulars, within 28 days after receipt of the copy of the order, so that they contain such a statement. 15

(5) Where:

- (a) by virtue of subsection (1) or (4), the particulars of the entry in the Child Support Register in relation to an enforceable maintenance liability contain a statement that automatic withholding does not apply in relation to the liability; and 20
- (b) either of the following subparagraphs applies:
 - (i) in any case—the payer does not make regular and timely payments to the Registrar under the liability; 25
 - (ii) in a case where a court has, under subsection (3), made an order directing that, pending disposal of proceedings, automatic withholding is not to apply in relation to the liability—the order is set aside or discharged or expires or otherwise ceases to be in force or the payer of the enforceable maintenance liability does not, within 3 months after the making of that order, furnish to the Registrar a certified or sealed copy of an order of a court, under subsection (2), directing that automatic withholding is not to apply in relation to the liability; 30 35

the Registrar shall vary those particulars so that they contain a statement that automatic withholding applies in relation to the liability unless the Registrar is satisfied, after taking into account, in a case to which subparagraph (b) (i) applies, the matter mentioned in that subparagraph, that the collection of payments due under the liability by deduction from the salary or wages of the payer under this Part would not be an efficient method of collecting those payments. 40

(6) Where the Registrar is satisfied that, in the special circumstances of a particular case, the collection of payments due under an enforceable

5 maintenance liability by deduction from the salary or wages of the payer under this Part would not be an efficient method of collecting those payments, the Registrar may include in the particulars of the entry in the Child Support Register in relation to the liability a statement that automatic withholding does not apply in relation to the liability or may vary those particulars so that they contain such a statement, as the case requires.

(7) Where:

10 (a) by virtue of subsection (6), the particulars of the entry in the Child Support Register in relation to an enforceable maintenance liability contain a statement that automatic withholding does not apply in relation to the liability; and

(b) the payer does not make regular and timely payments to the Registrar under the liability;

15 the Registrar shall vary those particulars so that they contain a statement that automatic withholding applies in relation to the liability unless the Registrar is satisfied, after taking into account the matter mentioned in paragraph (b), that the collection of payments due under the liability by deduction from the salary or wages of the payer under this Part would still not be an efficient method of collecting those payments.

20 (8) Where:

(a) by virtue of subsection (6), the particulars of the entry in the Child Support Register in relation to an enforceable maintenance liability contain a statement that automatic withholding does not apply in relation to the liability; and

25 (b) the Registrar becomes satisfied that the collection of payments due under the liability by deduction from the salary or wages of the payer under this Part would be an efficient method of collecting those payments;

30 the Registrar shall vary those particulars so that they contain a statement that automatic withholding applies in relation to the liability.

35 (9) In determining for the purposes of subsections (5) to (8) (inclusive) whether the collection of payments due under an enforceable maintenance liability by deduction from the salary or wages of the payer under this Part would be an efficient method of collecting those payments, the Registrar shall have regard in particular to the need to ensure that the payments are received by the Registrar on a regular and timely basis.

40 (10) If the period at which amounts are payable under an enforceable maintenance liability exceeds one month, the Registrar shall include in the particulars of the entry in the Child Support Registrar in relation to the liability a statement that automatic withholding does not apply in relation to the liability.

Notification to be given to employer and employee

45. (1) The Registrar may, for the purpose of collecting amounts due to the Commonwealth under an enforceable maintenance liability by deduction from the salary or wages of the payer under this Part, give a notice in writing to an employer of the payer: 5

- (a) specifying the name of the payer and other particulars of the payer sufficient to enable the payer to be identified by the employer; and
- (b) instructing the employer:
 - (i) to make in accordance with section 46, as from a specified day, periodic deductions in accordance with the specified weekly deduction rate from salary or wages paid by the employer to the payer; and 10
 - (ii) to pay to the Registrar in accordance with subsection 47 (1) amounts so deducted.

(2) Where: 15

- (a) particulars entered in the Child Support Register in relation to an enforceable maintenance liability are varied; and
- (b) the Registrar is of the opinion that the revocation or variation of a notice in force under subsection (1) in relation to the liability is necessary or desirable to take account of the variations made to those particulars; 20

the Registrar shall forthwith give a notice in writing to the employer to whom the notice was given varying or revoking accordingly the earlier notice given to the employer.

(3) Where the Registrar gives a notice under subsection (1) or (2) to an employer in relation to the payer of an enforceable maintenance liability, the Registrar shall forthwith give a copy of the notice to the payer. 25

Duty of employer to make deductions from salary or wages

46. (1) Subject to subsection (3), where an employer pays salary or wages to an employee in relation to whom a notice given to the employer under subsection 45 (1) is in force, the employer shall, at the time of paying the salary or wages, make a deduction from the salary or wages in accordance with this section. 30

Penalty: \$1,000.

(2) Subject to subsection (4), the amount of the deduction is the amount ascertained by applying the weekly deduction rate specified in the notice to the period in relation to which the salary or wages are paid. 35

(3) Where the amount of the salary or wages is less than the amount (in subsection (4) called the "protected earnings amount") ascertained by applying the protected earnings rate to the period in relation to which the salary or wages are paid, no deduction shall be made. 40

(4) Where the amount of the salary or wages exceeds the amount of the deduction that would, but for this subsection, be required to be made from

the salary or wages by less than the protected earnings amount, the amount of the deduction is the amount by which the amount of the salary or wages exceeds the protected earnings amount.

5 (5) Where a person (in this subsection called the “convicted person”) is convicted before a court of an offence against subsection (1) in relation to the refusal or failure of the convicted person or another person to make a deduction from salary or wages in accordance with this section, the court may, in addition to imposing a penalty on the convicted person, order the convicted person to pay to the Registrar, as a debt due to the Commonwealth,
10 an amount not exceeding the amount of the deduction.

(6) For the purposes of this section, where an employer pays an amount of salary or wages to an employee, then:

15 (a) if the amount is paid in relation to piece-work performed by the employee or in relation to services rendered under a contract that is wholly or principally for the labour of the employee—the amount shall be taken to be paid in relation to the period:

(i) that began when the work or services began; and

(ii) that ended when the work or services ended;

20 (b) if the amount is paid in relation to any other work performed or services rendered, but not in relation to a particular period—the amount shall be taken to be paid in relation to the period of 52 weeks preceding the day on which the amount is paid; and

25 (c) if the employee is entitled to be paid the amount in relation to a period of longer than one week—the employer shall be deemed to have paid an amount of salary or wages to the employee in relation to each week or part of a week in the period, being the amount ascertained by dividing the amount of salary or wages in fact paid by the number of days in the period and multiplying the resultant amount:

30 (i) in the case of each week—by 7; and

(ii) in the case of a part of a week—by the number of days in the part of the week.

35 (7) Where salary or wages for a week or part of a week is or are paid by an employer in 2 or more separate amounts, all the amounts shall, for the purposes of this section, be aggregated, and the employer may make the deduction wholly from one amount or partly from 2 or more amounts.

40 (8) For the purposes of subsections (3) and (4), the amount of any salary or wages shall be taken to be the amount of the salary or wages after deduction of the amount (if any) that is, under Division 2 of Part VI of the *Income Tax Assessment Act 1936*, required to be deducted from the salary or wages.

Additional duties of employers

47. (1) An employer who has during any month made deductions under this Part shall, not later than the seventh day of the following month:

- (a) pay to the Registrar the amounts so deducted; and
- (b) furnish to the Registrar, in the approved form, the particulars required by the form. 5

Penalty: \$5,000 or imprisonment for 12 months, or both.

(2) When an employer makes a payment of salary or wages to an employee in relation to whom a notice given to the employer under subsection 45 (1) is in force, the employer shall notify the employee, in writing: 10

- (a) of the amount of the deduction made under this Part from the salary or wages; or
- (b) that no deduction has been made under this Part from the salary or wages;

as the case requires. 15

Penalty: \$1,000.

(3) Where, in any month, an employee in relation to whom a notice given to an employer under subsection 45 (1) is in force ceases to be an employee of the employer, the employer shall, not later than the seventh day of the following month, notify the Registrar in the approved form. 20

Penalty: \$500.

(4) The Registrar may, by notice in writing served on an employer, vary in relation to the employer, in such instances and to such extent as the Registrar thinks fit, any of the requirements of subsections (1), (2) and (3).

Two or more employers in relation to one employee 25

48. Where a person who is the payer of an enforceable maintenance liability is in receipt of salary or wages from 2 or more employers, the Registrar may:

- (a) treat any one of the employers as the only employer for the purposes of this Part; or 30
- (b) apply sections 46 and 47 in relation to any 2 or more of the employers with such modifications as the Registrar considers appropriate, being modifications made for the purpose of ensuring that the amounts collected under this Part in relation to the liability are, in the aggregate, the same as those that would be collected in relation to the liability if the payer had only one employer. 35

Discharge of payer's liability to Registrar and employer's liability to payer

49. Where an employer deducts an amount under this Part from the salary or wages of the payer of an enforceable maintenance liability: 40

- (a) the payer is, to the extent of the amount deducted, discharged from the payer's liability to make payments to the Registrar under the liability; and

- (b) the employer is discharged from liability to pay the amount to any person other than the Registrar.

Payment by trustees of deducted amounts

50. (1) Where:

- 5 (a) an amount is payable to the Registrar by an employer under subsection 47 (1) (including that subsection as varied under subsection 47 (4)); and
- (b) the property of the employer has become vested in, or the control of the property of the employer has passed to, a trustee;
- 10 the trustee is liable to pay the amount to the Registrar.

(2) Notwithstanding any other law of the Commonwealth or any law of a State or Territory:

- 15 (a) an amount payable to the Registrar by a trustee under subsection (1) has priority over all other debts (other than amounts payable under subsection 221P (1), 221YHJ (3) or 221YHZD (3) of the *Income Tax Assessment Act 1936*), whether preferential, secured or unsecured;
- 20 (b) where an amount is payable by a trustee to the Registrar under subsection 221P (1), 221YHJ (3) or 221YHZD (3) of the *Income Tax Assessment Act 1936*, an amount payable by the trustee under subsection (1) of this section ranks equally with the amount payable under whichever of those subsections is applicable in priority to all other debts, whether preferential, secured or unsecured.

- 25 (3) Where a trustee, being a trustee of an estate of a bankrupt or a liquidator of a company that is being wound up, is liable to pay an amount to the Registrar under subsection (1), subsection (2) does not have the effect that the amount is payable in priority to any costs, charges or expenses of the administration of the estate or of the winding up of the company (including costs of a creditor or other person on whose petition the
- 30 sequestration order or the winding up order (if any) was made and the remuneration of the trustee) that are lawfully payable out of the assets of the estate or of the company except where, in the case of the winding up of a company, the Crown in right of a State or of the Northern Territory or Norfolk Island or any other creditor is entitled to payment of a debt by
- 35 the liquidator, in priority to all or any of those costs, charges and expenses and has not waived that priority.

Division 2—Penalties

Penalty for late remittance of deductions

- 40 **51.** Where an amount (in this section called the “principal amount”) payable to the Registrar by an employer other than the Commonwealth under subsection 47 (1) (including that subsection as varied under subsection 47 (4)) remains unpaid after the time by which it is required to be paid:

- (a) the principal amount continues to be payable by the employer to the Registrar; and
- (b) the employer is liable to pay to the Registrar, by way of penalty:
 - (i) in a case where the employer is a government body—an amount at the rate of 20% per annum on so much of the principal amount as remains unpaid, computed from that time; and 5
 - (ii) in any other case:
 - (A) an amount (in this subparagraph called the “relevant penalty amount”) equal to 20% of the principal amount; and 10
 - (B) an amount at the rate of 20% per annum on so much of the principal amount as remains unpaid and so much of the relevant penalty amount as remains unpaid, computed from that time. 15

Penalty for failure etc. to make deductions from salary or wages

52. Where an employer other than the Commonwealth contravenes subsection 46 (1) in relation to a payment of salary or wages, the employer is liable to pay to the Registrar, by way of penalty:

- (a) an amount equal to 20% per annum of so much of the amount that the employer refused or failed to deduct from the payment (in this section called the “undeducted amount”) as remains unpaid, computed from the end of the period within which, had the employer deducted the undeducted amount, the employer would have been required to pay the undeducted amount to the Registrar; and 20
- (b) in the case of an employer other than a government body—an amount equal to the undeducted amount. 25

Penalty in relation to certain unexplained remittances by employers

53. Where:

- (a) the Registrar receives an amount under paragraph 47 (1) (a) from an employer other than the Commonwealth in relation to a month; 30
- (b) the employer contravenes paragraph 47 (1) (b) in relation to the month; and
- (c) an amount (in this section called the “appropriated amount”) is appropriated out of the Consolidated Revenue Fund under paragraph 78 (3) (d) in relation to the employer in relation to the month; 35

the employer is liable to pay to the Registrar, by way of penalty, an amount equal to the appropriated amount.

Remission of certain penalty amounts

54. (1) Where an amount (in this section called the “late payment penalty”) is payable by an employer under subparagraph 51 (b) (i), subparagraph 51 (b) (ii) (B) or paragraph 52 (a) in relation to another 40

amount (in this subsection called the "principal amount") that has not been paid and:

(a) the Registrar is satisfied that:

- (i) the circumstances that contributed to the delay in payment of the principal amount were not due to, or caused directly or indirectly by, an act or omission of the employer; and
- (ii) the employer has taken reasonable action to mitigate, or mitigate the effects of, those circumstances;

(b) the Registrar is satisfied that:

- (i) the circumstances that contributed to the delay in payment of the principal amount were due to, or caused directly or indirectly by, an act or omission of the employer;
- (ii) the employer has taken reasonable action to mitigate, or mitigate the effects of, those circumstances; and
- (iii) having regard to the nature of those circumstances, it would be fair and reasonable to remit the late payment penalty or part of the late payment penalty; or

(c) the Registrar is satisfied that there are special circumstances by reason of which it would be fair and reasonable to remit the late payment penalty or part of the late payment penalty;

the Registrar may remit the late payment penalty or part of the late payment penalty.

(2) The Registrar may remit the whole or part of any amount payable by an employer under sub-subparagraph 51 (b) (ii) (A), paragraph 52 (b) or section 53.

(3) Where the Registrar makes a decision to remit only part of an amount payable as mentioned in subsection (2), or not to remit in any part of such an amount, the Registrar shall give notice in writing of the decision to the person by whom the amount is, or but for the remission would be, payable.

Reduction of late payment penalty where judgment debt carries interest

55. (1) Where judgment is given by, or entered in, a court for the payment of:

(a) the whole or a part of a principal amount; or

(b) an amount that includes the whole or a part of a principal amount; then:

(c) the principal amount or the part of the principal amount, as the case may be, shall not be taken, for the purposes of subparagraph 51 (b) (i), sub-subparagraph 51 (b) (ii) (B) or paragraph 52 (a), as the case may be, to have ceased to be due and payable merely because of the giving or entering of the judgment; and

(d) if the judgment debt carries interest, the amount that would, but for this paragraph, be payable under whichever of those provisions

is applicable in relation to the principal amount or the part of the principal amount shall, by force of this paragraph, be reduced by:

- (i) in a case to which paragraph (a) applies—the amount of the interest; or
- (ii) in a case to which paragraph (b) applies—an amount that bears the same proportion to the amount of the interest as the principal amount, or the part of the principal amount, bears to the amount of the judgment debt. 5

(2) In subsection (1), “principal amount” means:

- (a) an amount of the kind referred to in section 51 as the principal amount; 10
- (b) an amount of the kind referred to in subparagraph 51 (b) (ii) as the relevant penalty amount; or
- (c) an amount of the kind referred to in section 52 as the undeducted amount. 15

Penalty to be alternative to prosecution for certain offences against Part

56. (1) Where:

- (a) but for this subsection, an amount is payable, by way of penalty, by a person to the Registrar under this Part because of an act or omission of the person; and 20
- (b) a prosecution is instituted against the person for an offence against this Part constituted by the act or omission;

the amount is not payable unless and until the prosecution is withdrawn.

(2) Where:

- (a) a person is liable to pay, by way of penalty, an amount (in this subsection called the “penalty amount”) to the Registrar under this Part because of an act or omission of the person; 25
- (b) an amount (in this subsection called the “credited amount”) is paid, or applied by the Registrar, in total or partial discharge of the liability; and 30
- (c) a prosecution is instituted against the person for an offence against this Part constituted by the act or omission;

the credited amount shall be refunded to the person, or applied by the Registrar in total or partial discharge of a debt due to the Commonwealth by the person under this Act, but, if the prosecution is withdrawn, the person again becomes liable to pay the penalty amount. 35

Division 3—Provisions applicable to employers

Employers not to prejudice employees because of registrable maintenance liabilities etc.

57. (1) An employer who: 40

- (a) refuses to employ, or to pay salary or wages to, another person;

- (b) dismisses, or threatens to dismiss, another person from the other person's employment;
- (c) terminates, or threatens to terminate, the payment of salary or wages to another person;
- 5 (d) prejudices, or threatens to prejudice, another person in the other person's employment or otherwise in the receipt of salary or wages; or
- (e) intimidates or coerces, imposes any pecuniary or other penalty on, or takes any other disciplinary action in relation to, another person;

10 because the other person:

- (f) is the payer of a registrable maintenance liability; or
- (g) is an employee in relation to whom a notice has been given to the employer under subsection 45 (1);

15 is guilty of an offence punishable on conviction by a fine not exceeding \$2,000.

(2) In a prosecution for an offence against subsection (1), it is not necessary for the prosecutor to prove the reason for the defendant's action, but it is a defence to the prosecution if the defendant proves, on the balance of probabilities, that the action was not motivated (either in whole or in part) by a reason specified in that subsection.

(3) Where an employer is convicted of an offence against subsection (1) constituted by an act done in relation to a person, the court may:

- (a) order the payment of compensation to the person for loss or damage suffered as a result of the act; and
- 25 (b) order the taking of action to remedy or reduce the loss or damage suffered by the person as a result of the act.

Employers not to disclose information etc.

58. Any person who is or has been:

- (a) an employer; or
- 30 (b) a person employed by, or performing services for, an employer;

shall not, except for the purposes of this Part or otherwise in connection with the performance of the employer's duties under this Part or in connection with the carrying on of the employer's affairs, directly or indirectly divulge or communicate to a second person any information in relation to the affairs of a third person, being information disclosed or obtained under or for the purposes of this Part and acquired by the person because of, or in the course of, the performance of the employer's duties under this Part.

Penalty: \$1,000.

Records to be kept and preserved by employers

40 59. (1) An employer shall:

- (a) keep records that record and explain:
 - (i) all amounts deducted, or required to be deducted, from salary or wages under section 46; and

(ii) other acts engaged in by the employer, or required to be engaged in by the employer, under this Part; and

(b) retain those records for a period of 7 years.

(2) The records shall be kept:

(a) in writing in the English language or so as to enable the records to be readily accessible and convertible into writing in the English language; and 5

(b) so as to enable the matters and acts referred to in paragraph (1) (a) to be readily ascertained.

(3) Nothing in this section shall be taken to require a person to retain records where: 10

(a) the Registrar has notified the person that retention of the records is not required; or

(b) the person is a company that has gone into liquidation and has been finally dissolved. 15

Penalty: \$2,000.

Incorrectly keeping records etc.

60. (1) Where an employer who is required by section 59 to keep records keeps them in such a way that they do not correctly record and explain the matters or acts to which they relate, the employer is guilty of an offence punishable on conviction by a fine not exceeding \$2,000. 20

(2) In a prosecution of an employer for an offence against subsection (1), it is a defence if the employer proves that the employer:

(a) did not know; and

(b) could not reasonably be expected to have known; 25

that the record to which the prosecution relates did not correctly record and explain the matter or act to which the record relates.

Access to premises etc.

61. (1) For the purposes of the application of this Part in relation to an employer, an officer authorised in writing by the Registrar to exercise powers under this section: 30

(a) may, at all reasonable times, enter and remain on any land or premises;

(b) is allowed free access at all reasonable times to all documents; and

(c) may inspect, examine, make copies of, or take extracts from, any document. 35

(2) An officer is not entitled to enter or remain on any land or premises under this section if, on being requested by the occupier of the land or premises for proof of authority, the officer does not produce an authority in writing signed by the Registrar stating that the officer is authorised to exercise powers under this section. 40

(3) The occupier of land or premises entered or proposed to be entered by an officer under this section shall, for the purpose of enabling the effective exercise of the officer's powers under this section, provide the officer with all reasonable facilities and assistance that the occupier is reasonably capable of providing.

Penalty: \$1,000.

Public officer of company

62. (1) The person who is, from time to time, the public officer of a company for the purposes of the *Income Tax Assessment Act 1936* is the public officer of the company for the purposes of this Act, and the address for service of the public officer under that Act is the address for service under this Act.

(2) Service of any document or requisition at the address for service of the public officer, or on the public officer, is sufficient service on the company for the purposes of this Act, but, if at any time there is not a public officer of the company, service on any person acting or appearing to act in the business of the company is sufficient.

(3) The public officer is answerable for the doing of all acts required to be done by the company under this Act, and in case of default is liable to the same penalties.

(4) Everything done by the public officer that the public officer is required to do in that capacity shall be deemed to have been done by the company.

(5) If, at any time, there is not a public officer of the company, this Act applies in relation to the company as if there were no requirement to appoint a public officer of the company.

(6) Any proceedings under this Act (including proceedings for an offence against this Act) taken against the public officer shall be deemed to have been taken against the company, and the company is liable jointly with the public officer for any penalty imposed on the public officer.

(7) Notwithstanding subsections (1) to (6) (inclusive) and without affecting any of the obligations and liabilities of the public officer, any notice, process or proceeding that under this Act may be given to, served on or taken against the company or public officer may, if the Registrar thinks fit, be given to, served on or taken against any director, secretary or other officer of the company or any attorney or agent of the company, and the director, secretary, officer, attorney or agent has the same liability in relation to the notice, process or proceeding as the company or public officer would have had if it had been given to, served on or taken against the company or public officer.

Public officer of trust estate

63. (1) The person who is, from time to time, the public officer of a trust estate for the purposes of section 252A of the *Income Tax Assessment Act 1936* is the public officer of the trust estate for the purposes of this Act, and the address for service of the public officer under that Act is the address for service of the public officer under this Act. 5

(2) Service of any document or requisition at the address for service of the public officer, or on the public officer, is sufficient service on the trustee of the trust estate for the purposes of this Act, but, if at any time there is not a public officer of the trust estate, service on any person acting or appearing to act on the business of the trust estate is sufficient. 10

(3) The public officer is answerable for the doing of all acts required to be done by the trustee of the trust estate under this Act, and in case of default is liable to the same penalties.

(4) Everything done by the public officer that the public officer is required to do in that capacity shall be deemed to have been done by the trustee of the trust estate. 15

(5) If, at any time, there is not a public officer of the trust estate, this Act applies in relation to the trustee of the trust estate as if there were no requirement to appoint a public officer of the trust estate. 20

(6) Any proceedings under this Act (including proceedings for an offence against this Act) taken against the public officer shall be deemed to have been taken against the trustee of the trust estate, and the trustee shall be liable jointly with the public officer for any penalty imposed on the public officer. 25

(7) Notwithstanding subsections (1) to (6) (inclusive) and without affecting any of the obligations and liabilities of the public officer, any notice, process or proceeding that under this Act may be given to, served on or taken against the trustee or public officer of the trust estate may, if the Registrar thinks fit, be given to, served on or taken against any agent or attorney of the trustee, and the agent or attorney has the same liability in relation to the notice, process or proceeding as the trustee or public officer would have had if it had been given to, served on or taken against the trustee or public officer. 30

Division 4—Miscellaneous 35**Amounts payable under Part debts due to Commonwealth**

64. An amount payable to the Registrar under this Part is a debt due to the Commonwealth.

Application of amounts paid or credited where 2 or more debts due

65. Where: 40

- (a) 2 or more debts are due to the Commonwealth by an employer under this Part;

(b) an amount is paid to or to be credited by the Registrar, or an amount is paid to and an amount is to be credited by the Registrar, in relation to all or any of the debts; and

5 (c) the total amount of the debts exceeds the amount so paid or to be credited or the sum of the amounts so paid and to be credited, as the case may be;

the Registrar may, in spite of any direction given by or on behalf of the employer:

10 (d) apply the amount, or the sum of the amounts, in partial discharge of the total amount of the debts; and

(e) recover the amount by which the total amount of the debts exceeds the amount or the sum of the amounts;

without allocating the amount, or the sum of the amounts, towards the discharge of any particular debt or debts.

15 **PART V—PAYMENT AND RECOVERY OF CHILD SUPPORT DEBTS**

When child support debts due and payable

66. An amount that becomes a child support debt in any month is due and payable on the seventh day of the following month.

20 **Penalty for late payment of child support debts**

67. (1) Where a child support debt remains unpaid after the time when it became due and payable, the person liable to pay the debt is liable to pay to the Registrar, by way of penalty, whichever is the greater of:

- (a) \$20; or
- 25 (b) an amount at the rate of 20% per annum on the amount unpaid, computed from that time.

(2) An amount payable to the Registrar under subsection (1) is a debt due to the Commonwealth.

Remission of late payment penalty

30 **68.** Where an amount (in this section called the “late payment penalty”) is payable by a person under section 67 in relation to a child support debt and:

- (a) the Registrar is satisfied that:
 - 35 (i) the circumstances that contributed to the delay in payment of the debt were not due to, or caused directly or indirectly by, an act or omission of the person; and
 - (ii) the person has taken reasonable action to mitigate, or mitigate the effects of, those circumstances;
- (b) the Registrar is satisfied that:

- (i) the circumstances that contributed to the delay in payment of the debt were due to, or caused directly or indirectly by, an act or omission of the person;
- (ii) the person has taken reasonable action to mitigate, or mitigate the effects of, those circumstances; and 5
- (iii) having regard to the nature of those circumstances, it would be fair and reasonable to remit the late payment penalty or part of the late payment penalty; or
- (c) the Registrar is satisfied that there are special circumstances by reason of which it would be fair and reasonable to remit the late payment penalty or part of the late payment penalty; 10

the Registrar may remit the late payment penalty or part of the late payment penalty.

Reduction of late payment penalty where judgment debt carries interest

69. Where judgment is given by, or entered in, a court for payment of: 15

- (a) a child support debt; or
- (b) an amount that includes a child support debt;

then:

- (c) the debt shall not be taken, for the purposes of subsection 67 (1), to have ceased to be due and payable merely because of the giving or entering of the judgment; and 20
- (d) if the judgment debt carries interest, the amount that would, but for this paragraph, be payable under that subsection in relation to the debt shall, by force of this paragraph, be reduced by:
 - (i) in a case to which paragraph (a) applies—the amount of the interest; or 25
 - (ii) in a case to which paragraph (b) applies—an amount that bears the same proportion to the amount of the interest as the amount of the debt bears to the amount of the judgment debt. 30

Apportionment of payment between payees

70. Where:

- (a) 2 or more child support debts are owing by a person;
- (b) the debts relate to 2 or more registrable maintenance liabilities with different payees; 35
- (c) an amount is paid to, or to be credited by, the Registrar, or an amount is paid to and an amount is to be credited by the Registrar, in relation to all or any of the debts; and
- (d) the total amount of the debts exceeds the amount paid or to be credited or the sum of the amounts paid and to be credited, as the case may be; 40

the Registrar shall, in spite of any direction given by or on behalf of the person, apportion the amount of the payment or credit, or the sum of the

amounts of the payment and credit, between the payees in proportion to the amount of the debt owing in relation to each payee, and apply the amounts so apportioned in partial discharge of each of those debts.

Direct payments to payee

71. Where:

- (a) the payee of an enforceable maintenance liability receives from the payer an amount intended by both the payer and the payee to be paid in complete or partial satisfaction of an amount payable under the liability in relation to the child support enforcement period; and
- (b) the Registrar is satisfied, on application made to the Registrar by the payee or payer in the approved form, that, in the special circumstances of the particular case, the amount received by the payee should be treated as having been paid to the Registrar;

the Registrar shall, in spite of section 30, credit the amount received by the payee against the liability of the payer to the Commonwealth in relation to the amount payable under the liability.

Application of tax overpayments

72. Where:

- (a) the Registrar finds in any case that an amount is owing to a person by the Commonwealth under an Act of which the Registrar has the general administration (whether as Commissioner or Registrar); and
 - (b) a debt is due to the Commonwealth by the person under this Act;
- then, in spite of anything contained in that Act or any other law of the Commonwealth, the Registrar may apply the amount owing to the person against the amount of the debt.

PART VI—PAYMENTS TO PAYEES

Division 1—Establishment and operation of Trust Account

Establishment etc.

73. (1) An account by the name of the Child Support Trust Account is established by this subsection.

(2) The Child Support Trust Account is a trust account for the purposes of section 62A of the *Audit Act 1901*.

Payments into Trust Account

74. (1) There shall be paid into the Trust Account:

- (a) amounts received by the Registrar in payment of child support debts (including amounts received from employers under paragraph 47 (1) (a));
- (b) amounts received by the Registrar from payers of enforceable maintenance liabilities as voluntary payments for transmission to the payees of the liabilities;

- (c) amounts received by the Registrar in relation to amounts that persons were not entitled to have been paid out of the Trust Account; and
- (d) amounts appropriated from the Consolidated Revenue Fund in accordance with section 77 or subsection 78 (3). 5

(2) Where the Registrar receives an amount of which only part appears to the Registrar to fall within subsection (1), the Registrar shall determine, in writing, the portion of the amount falling within that subsection, and pay that portion into the Trust Account.

Payments out of Trust Account

10

75. Money standing to the credit of the Trust Account may be applied:

- (a) in making payments under subsection 76 (1) to payees of registered maintenance liabilities;
- (b) in making payments to the payees of enforceable maintenance liabilities of amounts received from the payers of the liabilities as voluntary payments for transmission to the payees; 15
- (c) in repaying amounts paid into the Trust Account that the Registrar was not entitled to have received under this Act; and
- (d) in paying to the Consolidated Revenue Fund amounts received from employers and payers of enforceable maintenance liabilities in relation to cases in which an appropriation has previously been required from that Fund under section 77 or subsection 78 (3). 20

Division 2—Payments to payees

Entitlement of payees to be paid collected amounts

76. (1) Subject to subsection (2) of this section and subsection 79 (2), every payee of a registered maintenance liability is entitled to be paid, on or before the first Wednesday following the end of each month (in this section called the “current month”), an amount equal to the aggregate of: 25

- (a) amounts deducted by an employer under Part IV in relation to the liability during the month (in this section called the “previous month”) preceding the current month; 30
- (b) amounts received by the Registrar (otherwise than under Part IV) in payment of a child support debt in relation to the liability during the period (in this section called the “payment period”) beginning on the day following the closing day of the previous month and ending on the closing day of the current month; and 35
- (c) to the extent that they have not previously been paid to the payee, amounts that were:
 - (i) deducted by an employer under Part IV in relation to the liability before the previous month; or 40

- (ii) received by the Registrar (otherwise than under Part IV) in payment of a child support debt in relation to the liability before the payment period;

5 but excluding (in the case of each of the amounts mentioned in paragraphs (a), (b) and (c)) any amount that was not due and payable by the payer on the seventh day of the current month.

10 (2) Subject to the regulations, where the amount that a person is, but for this subsection, entitled to be paid at any time under subsection (1) in relation to a registered maintenance liability is less than the amount prescribed for the purposes of this subsection, the person is not entitled to be paid the amount at that time.

Unremitted deductions made by employers

77. Where:

- 15 (a) the Registrar is satisfied that a deduction has been made under subsection 46 (1) in a month by an employer from the salary or wages of an employee; and
- (b) the amount of the deduction is not paid to the Registrar under paragraph 47 (1) (a) on or before the closing day of the following month;
- 20 an amount equal to the amount of the deduction unpaid on that closing day is payable into the Trust Account out of the Consolidated Revenue Fund, which is appropriated accordingly.

Unexplained remittances from employers

78. (1) This section applies where:

- 25 (a) on or before the closing day of a month, the Registrar receives under paragraph 47 (1) (a) an amount (in this section called the "received amount") from an employer in relation to the amounts deducted by the employer under Part IV from the salary or wages of employees during the preceding month;
- 30 (b) the employer contravenes paragraph 47 (1) (b) in relation to the preceding month; and
- (c) the Registrar is unable to ascertain to the Registrar's satisfaction, on or before the closing day, the portion of the received amount attributable to each of the employees (in this section called the "relevant employees") in relation to whom a notice given to the employer under subsection 45 (1) was in force during the preceding month.
- 35
- (2) The Registrar may, for the purposes of subsection 76 (1):
- (a) subject to subsection (3), treat the received amount as the total of the amounts deducted by the employer under Part IV from the salary or wages of all the relevant employees during the preceding month; and
- 40

- (b) apportion the amount between the relevant employees on the basis that appears to the Registrar to be the most appropriate in the circumstances.

(3) Where:

- (a) the received amount is less than the amount (in this subsection called the "expected amount") that, according to the records held by the Registrar, should have been received from the employer under paragraph 47 (1) (a) in relation to the preceding month; and 5
- (b) the expected amount does not exceed the sum of the received amount and the product of the amount prescribed for the purposes of this subsection and the number of relevant employees; 10

then:

- (c) for the purposes of subsection (2) of this section, the received amount shall be deemed to be an amount equal to the expected amount; and 15
- (d) an amount equal to the difference between the expected amount and the received amount is payable into the Trust Account out of the Consolidated Revenue Fund, which is appropriated accordingly.

Overpayments of payees

79. (1) Where the payee of a registered maintenance liability is paid an amount under subsection 76 (1) and: 20

- (a) the payee was not entitled to be paid the amount; or
- (b) the amount is, because of a subsequent variation to particulars of the entry in the Child Support Register in relation to the liability, repayable by the Registrar to the payer of the liability; 25

the amount is repayable by the payee to the Secretary and is a debt due by the payee to the Commonwealth.

(2) Where, in a case falling within subsection (1), the payee is entitled to receive further payments under subsection 76 (1), the amount of the debt due to the Commonwealth by the payee may be recovered by reducing such of those payments by such amount as is determined in writing by the Secretary. 30

PART VII—REVIEW OF DECISIONS

Division 1—Decisions reviewable by the courts

Notice to be given to payer and payee in relation to decisions reviewable by the courts 35

80. (1) As soon as practicable after the Registrar registers a registrable maintenance liability under this Act or varies particulars entered in the Child Support Register in relation to a registrable maintenance liability, the Registrar shall serve notice in writing of the particulars entered in the Child Support Register in relation to the liability on the payer and payee. 40

(2) As soon as practicable after the Registrar deletes an entry in relation to a registrable maintenance liability from the Child Support Register, the Registrar shall serve notice of the decision on the payer and payee.

- 5 (3) As soon as practicable after the Registrar makes an appealable refusal decision in relation to a registrable maintenance liability (other than a decision falling within paragraph (d) or (e) of the definition of "appealable refusal decision" in subsection 4 (1)), the Registrar shall serve notice in writing of the decision on the payer and payee.

Statement to accompany notices

- 10 81. (1) A notice served on a person under section 80 shall include, or be accompanied by, a statement to the effect that:

- (a) the person may, subject to this Act, lodge an objection with the Registrar against the relevant decision in relation to which the notice is served; and
- 15 (b) if the person is aggrieved by the decision of the Registrar on the objection, the person may, subject to the *Family Law Act 1975*, appeal to a court having jurisdiction under this Act against the decision on the objection.

- 20 (2) A contravention of subsection (1) in relation to a decision does not affect the validity of the decision.

Objections relating to registration

82. (1) Where:

- (a) the Registrar registers a registrable maintenance liability under this Act; and
- 25 (b) the payer or payee is dissatisfied with:
- (i) the registration of the liability; or
- (ii) particulars entered in the Child Support Register in relation to the liability;

- 30 the payer or payee may, within 28 days after service on him or her of notice of the particulars that were, on the registration of the liability, entered in the Child Support Register in relation to the liability, lodge with the Registrar an objection in writing against the registration or the entry of those particulars, as the case requires.

(2) The objection shall state fully and in detail the grounds relied on.

- 35 (3) An objection may be made under subsection (1) on the ground that the relevant entry in the Child Support Register does not relate to a registrable maintenance liability.

(4) Subsection (3) shall not be taken to limit by implication the grounds that may be relied on in an objection under subsection (1).

Objections relating to variations to Child Support Register**83. (1) Where:**

- (a) the Registrar varies particulars entered in the Child Support Register in relation to a registrable maintenance liability; and
- (b) the payer or payee is dissatisfied with particulars that are, after the variation, entered in the Child Support Register in relation to the liability;

5

the payer or payee may, within 28 days after service on him or her of notice of the particulars that were, after the variation, entered in the Child Support Register in relation to the liability, lodge with the Registrar an objection in writing against the variation made to those particulars.

10

(2) The objection shall state fully and in detail the grounds relied on.

(3) The right to object under subsection (1) is limited to the right to object against the particulars that are varied and any other particulars affected by the variation.

15

Objections against deletion of entries from Child Support Register**84. (1) Where:**

- (a) the Registrar deletes an entry in relation to a registrable maintenance liability from the Child Support Register; and
- (b) the payer or payee is dissatisfied with the deletion of the entry;

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the payer or payee may, within 28 days after service on him or her of notice of the deletion of the entry, lodge with the Registrar an objection in writing against the deletion of the entry from the Child Support Register.

(2) The objection shall state fully and in detail the grounds relied on.

Objections relating to appealable refusal decisions

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85. (1) Subject to subsection (2), where:

- (a) the Registrar makes an appealable refusal decision in relation to a registrable maintenance liability; and
- (b) the payer or payee is dissatisfied with the decision;

the payer or payee may, within 28 days after service on him or her of notice of the decision, lodge with the Registrar an objection in writing against the decision.

30

(2) An objection against a decision in relation to a registrable maintenance liability, being a decision falling within paragraph (e) of the definition of "appealable refusal decision" in subsection 4 (1), may be lodged only by the payee of the liability, and shall be lodged within 28 days after the decision first comes to the notice of the payee.

35

(3) The objection shall state fully and in detail the grounds relied on.

Registrar to serve copy of grounds of objection on other party

86. (1) Where the payer of a registrable maintenance liability lodges an objection under this Division, the Registrar shall forthwith serve a copy of the grounds of the objection on the payee.

5 (2) Where the payee of a registrable maintenance liability lodges an objection under this Division, the Registrar shall forthwith serve a copy of the grounds of the objection on the payer.

10 (3) Where the Registrar serves a copy of the grounds of an objection on a person under this section, the person may, within 28 days after service on him or her of the copy of the grounds of the objection, lodge with the Registrar a notice in writing in opposition to or in support of the objection.

(4) The notice shall state fully and in detail the grounds relied on.

Consideration of objections by Registrar

15 87. (1) Where an objection is lodged with the Registrar under this Division, the Registrar shall consider the objection and any notice lodged with the Registrar under subsection 86 (3) in relation to the objection, and shall, within 60 days after the objection is lodged with the Registrar, either disallow the objection or allow it in whole or in part.

20 (2) The Registrar shall serve notice in writing of the decision on the person who lodged the objection and, where a notice was lodged with the Registrar under subsection 86 (3) in relation to the objection, the person who lodged the notice.

25 (3) A notice served on a person under subsection (2) shall include a statement to the effect that, if the person is aggrieved by the decision on the objection, the person may, subject to the *Family Law Act 1975*, appeal to a court having jurisdiction under this Act against the decision.

(4) A contravention of subsection (3) in relation to a decision does not affect the validity of the decision.

Appeal against decisions on objections

30 88. (1) Subject to subsection (2), a person aggrieved by a decision under subsection 87 (1) on an objection may appeal to a court having jurisdiction under this Act against the decision.

35 (2) An appeal against a decision under subsection 87 (1) on an objection in relation to a registrable maintenance liability, being a decision falling within paragraph (e) of the definition of "appealable refusal decision" in subsection 4 (1), may be instituted only by the payee of the liability.

(3) Subsection (1) has effect:

(a) subject to Chapter III of the Constitution; and

40 (b) notwithstanding section 9 of the *Administrative Decisions (Judicial Review) Act 1977*.

Applications for extension of time

89. (1) Where the period for the lodgment by a person of an objection under this Division has ended, the person may, even though the period has ended, send the objection to the Registrar together with an application in writing requesting the Registrar to treat the objection as having been duly lodged. 5

(2) The application shall state fully and in detail the grounds of the application, including the circumstances concerning, and the reasons for, the failure by the person to lodge the objection as required by this Division.

Copy of application for extension of time to be served on other party etc. 10

90. (1) Where the payer of a registrable maintenance liability sends an application to the Registrar under subsection 89 (1) in relation to an objection under this Division, the Registrar shall forthwith serve a copy of the grounds of the application and of the objection on the payee.

(2) Where the payee of a registrable maintenance liability sends an application to the Registrar under subsection 89 (1) in relation to an objection under this Division, the Registrar shall forthwith serve a copy of the grounds of the application and of the objection on the payer. 15

(3) Where the Registrar serves a copy of the grounds of an application and of an objection on a person under this section, the person may, within 28 days after service on him or her of a copy of the grounds of the application and the objection, lodge with the Registrar a notice in writing in opposition to or in support of the application, the objection or both. 20

(4) The notice shall state fully and in detail the grounds relied on.

Consideration of applications for extension of time for lodging objections 25

91. (1) Where an application is sent to the Registrar under subsection 89 (1) in relation to an objection under this Division, the Registrar shall consider the application and any notice lodged with the Registrar under subsection 90 (3) in relation to the application, and shall, within 60 days after the application is received by the Registrar, either grant or refuse the application and, if the application is granted, deal with the objection under subsection 87 (1). 30

(2) If the Registrar does not either grant or refuse to grant the application with that period of 60 days, the Registrar shall be deemed, at the end of that period, to have refused to grant the application. 35

(3) The Registrar shall serve notice in writing of the decision on the person who made the application and, where a notice was lodged with the Registrar under subsection 90 (3) in relation to the application, the person who lodged the notice. 40

(4) Where an application under subsection 89 (1) is granted, the person who made the application shall, for the purposes of this Act, be deemed to have duly lodged the objection to which the application relates.

5 (5) Application may be made to the Tribunal for review of a decision under subsection (1).

(6) In subsection (5), "decision" has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

Powers of court on appeal

10 92. A court hearing an appeal under this Division may make such order in relation to the decision to which the appeal relates as it considers appropriate, including an order confirming or varying the decision.

Implementation of decisions

15 93. (1) When a decision of a court under this Division (including an order made under section 92) becomes final, the Registrar shall forthwith take such action as is necessary to give effect to the decision.

(2) For the purpose of determining when a decision of a court becomes final:

- 20 (a) if the decision is not a decision of the Full Court of the Family Court and an application is not made for leave to appeal against the decision within the period for making such an application—the decision becomes final at the end of that period; or
- 25 (b) if the decision is a decision of the Full Court of the Family Court and an application is not made for special leave to appeal to the High Court within the period of 30 days after the making of the decision—the decision becomes final at the end of that period.

Pending appeal or review not to affect registration etc.

30 94. (1) The fact that an appeal or review is pending under this Division in relation to a registrable maintenance liability does not, in the meantime, interfere with, or affect, the registration of the liability under this Act or the particulars entered in the Child Support Register in relation to the liability, and amounts payable under the liability or payable, by way of penalty, in relation to the liability may be recovered as if no appeal were pending.

35 (2) For the purposes of subsection (1), an entry in the Child Support Register shall be taken to relate to a registrable maintenance liability unless and until a court, in a decision made under this Division, finds otherwise.

Division 2—Decisions reviewable by the Tribunal

Reviewable decisions defined

95. The following decisions are reviewable decisions:

- 40 (a) decisions under subsections 54 (1) and (2) refusing to remit an amount or remitting only part of an amount;

- (b) decisions under section 68 refusing to remit an amount or remitting only part of an amount.

Statement to accompany notices

96. (1) Where the Registrar makes a reviewable decision and gives to a person whose interests are affected by the decision notice in writing of the making of the decision, the notice shall include a statement to the effect that:

- (a) the person may, subject to this Act, lodge an objection with the Registrar against the decision; and
- (b) if the person is dissatisfied with the decision of the Registrar on the objection, application may, subject to the *Administrative Appeals Tribunal Act 1975*, be made to the Tribunal for review of the decision on the objection;

and, except where subsection 28 (4) of that Act applies, also include a statement to the effect that the person may request a statement under section 28 of that Act.

(2) Where the Registrar makes a decision under subsection 91 (1) or 101 (1) and gives to a person whose interests are affected by the decision notice in writing of the making of the decision, the notice shall include a statement to the effect that, if the person is dissatisfied with the decision, application may, subject to the *Administrative Appeals Tribunal Act 1975*, be made to the Tribunal for review of the decision and, except where subsection 28 (4) of that Act applies, also include a statement to the effect that the person may request a statement under section 28 of that Act.

(3) A contravention of subsection (1) or (2) in relation to a decision does not affect the validity of the decision.

Objections relating to reviewable decisions

97. (1) Where:

- (a) the Registrar makes a reviewable decision; and
- (b) a person whose interests are affected by the decision is dissatisfied with the decision;

the person may, within 28 days after service on him or her of notice of the decision, lodge with the Registrar an objection in writing against the decision.

(2) The objection shall state fully and in detail the grounds relied on.

Consideration of objections by Registrar

98. (1) Where an objection is lodged with the Registrar under this Division, the Registrar shall consider the objection, and shall, within 28 days after the objection is lodged with the Registrar, either disallow the objection or allow it in whole or in part.

(2) If the Registrar does not either disallow the objection or allow it in whole or part within that period of 28 days, the Registrar shall be deemed, at the end of that period, to have disallowed the objection.

(3) The Registrar shall serve notice in writing of the decision on the person who lodged the objection.

5 (4) The notice shall include a statement to the effect that, if the person is dissatisfied with the decision on the objection, application may, subject to the *Administrative Appeals Tribunal Act 1975*, be made to the Tribunal for review of the decision and, except where subsection 28 (4) of that Act applies, also include a statement to the effect that the person may request a statement under section 28 of that Act.

10 (5) A contravention of subsection (4) in relation to a decision does not affect the validity of the decision.

Review of decisions on objections

99. (1) Application may be made to the Tribunal for review of a decision under subsection 98 (1) on an objection.

15 (2) In subsection (1), "decision" has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

Applications for extension of time

20 100. (1) Where the period for the lodgment by a person of an objection under this Division has ended, the person may, even though the period has ended, send the objection to the Registrar together with an application in writing requesting the Registrar to treat the objection as having been duly lodged.

(2) The application shall state fully and in detail the grounds of the application, including the circumstances concerning, and the reasons for, the failure by the person to lodge the objection as required by this Division.

25 Consideration of applications for extension of time

30 101. (1) Where an application is sent to the Registrar under subsection 100 (1) in relation to an objection under this Division, the Registrar shall consider the application, and shall, within 28 days after the application is received by the Registrar, either grant or refuse the application and, if the application is granted, deal with the objection under subsection 98 (1).

(2) If the Registrar does not either grant or refuse to grant the application within that period of 28 days, the Registrar shall be deemed, at the end of that period, to have refused to grant the application.

35 (3) The Registrar shall serve notice in writing of the decision on the person who made the application.

(4) Where an application under subsection 100 (1) is granted, the person who made the application shall, for the purposes of this Act, be deemed to have duly lodged the objection to which the application relates.

40 (5) Application may be made to the Tribunal for review of a decision under subsection (1).

(6) In subsection (5), "decision" has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

Implementation of decisions

102. (1) When a decision of the Tribunal under this Part becomes final, the Registrar shall forthwith take such action as is necessary to give effect to the decision. 5

(2) If an appeal is not lodged against the decision of the Tribunal within the period for lodging an appeal, the decision becomes final at the end of the period.

Pending review not to affect decision 10

103. The fact that a review is pending under this Division in relation to a decision does not, in the meantime, interfere with, or affect, the decision, and amounts payable in relation to the decision may be recovered as if no review were pending.

PART VIII—JURISDICTION OF COURTS 15

Jurisdiction of courts under Act

104. (1) Jurisdiction is conferred on the Family Court and, subject to subsection (7), the Supreme Court of the Northern Territory, and each Family Court of a State is invested with federal jurisdiction in relation to matters arising under subsections 44 (2) and (3) and 88 (1). 20

(2) Subject to subsections (5) and (7), each court of summary jurisdiction of each State is invested with federal jurisdiction, and jurisdiction is conferred on each court of summary jurisdiction of each Territory, in relation to matters arising under subsections 44 (2) and (3) and 88 (1).

(3) The Governor-General may, by Proclamation, fix a day as the day on and after which proceedings in relation to matters arising under subsections 44 (2) and (3) and 88 (1) may not be instituted in, or transferred to, a court of summary jurisdiction in a specified State or Territory. 25

(4) A Proclamation under subsection (3) may be expressed to apply only in relation to: 30

- (a) proceedings of specified classes; or
- (b) the institution of proceedings in, or the transfer of proceedings to, a court of summary jurisdiction in a specified part of a State or Territory.

(5) A court of summary jurisdiction shall not hear or determine proceedings under subsections 44 (2) and (3) and 88 (1) otherwise than in accordance with any Proclamation in force under subsection (3) of this section. 35

(6) The Governor-General may, by Proclamation, declare that a Proclamation under subsection (3) is revoked on and from a specified day 40

and, on and from the specified day, this Act (including subsection (3)) has effect as if the revoked Proclamation had not been made, but without prejudice to the effect of the revoked Proclamation in relation to the jurisdiction of courts before the specified day.

5 (7) Jurisdiction in relation to a matter arising under subsection 44 (2) or (3) or 88 (1) in relation to which a proceeding is instituted under this Act is not conferred on a court of a Territory unless at least one of the parties to the proceeding (not being the Registrar) is, on the day of the institution of the proceeding or the day of the transfer of the proceeding to
10 that court, ordinarily resident in the Territory.

(8) The jurisdiction conferred on or invested in a court by this section includes jurisdiction in relation to matters arising under this Act in relation to which proceedings are transferred to that court under another law of the Commonwealth.

15 (9) The jurisdiction conferred on or invested in a court by this section is in addition to any jurisdiction conferred on or invested in the court apart from this section.

Application of Family Law Act

20 **105.** (1) The *Family Law Act 1975* (other than Part X of that Act) and the regulations and Rules of Court made under that Act apply, subject to this Act and with such modifications as are prescribed by the Rules of Court, to proceedings under this Act as if:

- (a) the proceedings were proceedings under that Act;
- (b) the proceedings were proceedings instituted under that Act;
- 25 (c) a court having or exercising jurisdiction in the proceedings were a court having or exercising jurisdiction under that Act;
- (d) a decree made in the proceedings were a decree made under that Act;
- (e) matters arising in the proceedings were matters arising under that
30 Act; and
- (f) any other necessary changes were made.

(2) Where any difficulty arises in the application of subsection (1) in or in relation to a particular proceeding, the court exercising jurisdiction in the proceeding may, on the application of a party to the proceeding or of its
35 own motion, give such directions, and make such orders, as it considers appropriate to resolve the difficulty.

Appellate jurisdiction of Family Court under Act

106. (1) The Family Court has jurisdiction with respect to matters arising under subsections 44 (2) and (3) and 88 (1) in relation to which:

- 40 (a) applications for leave to appeal referred to in section 107 or 110 are made; and
- (b) appeals referred to in section 107 or 110 are instituted.

(2) Subject to section 110, in an appeal under section 107 or 110, the Family Court shall have regard to the evidence given in the proceedings out of which the appeal arose and has power to draw inferences of fact and, in its discretion, to receive further evidence on questions of fact.

(3) The further evidence may be given by affidavit, by oral examination before the Family Court or a Judge or in such other manner as the Family Court directs. 5

Appeals to Family Court under Act

107. (1) An appeal lies, with the leave of a Full Court of the Family Court, to a Full Court from: 10

(a) a decree of the Family Court, constituted otherwise than as a Full Court, exercising original or appellate jurisdiction under this Act; or

(b) a decree of:

(i) a Family Court of a State; or

(ii) a Supreme Court of the Northern Territory constituted by a single Judge; 15

exercising original or appellate jurisdiction under this Act.

(2) An application for leave to appeal under subsection (1) shall be made within the time prescribed by the Rules of Court or within such further time as is allowed in accordance with the Rules of Court. 20

(3) On an appeal to the Full Court, the Full Court may affirm, reverse or vary the decree the subject of the appeal and may make such decree as, in the opinion of the Full Court, ought to have been made in the first instance, or may, if it considers appropriate, order a re-hearing, on such terms and conditions (if any) as it considers appropriate. 25

Cases stated

108. (1) If, in proceedings in a court under this Act, being proceedings in which a decree to which subsection 107 (1) applies could be made, a question of law arises that the Judge and at least one of the parties wish to have determined by a Full Court of the Family Court before the proceedings are further dealt with, the Judge shall state the facts and question in the form of a special case for the opinion of a Full Court, and a Full Court shall hear and determine the question. 30

(2) The Full Court may draw, from the facts and the documents, any inference, whether of fact or law, that could have been drawn from them by the Judge. 35

Appeals to High Court

109. Notwithstanding anything contained in any other Act, an appeal does not lie to the High Court from a decree of a court exercising jurisdiction under this Act, whether original or appellate, except: 40

(a) by special leave of the High Court; or

- (b) on a certificate of a Full Court of the Family Court that an important question of law or of public interest is involved.

Appeals from courts of summary jurisdiction

5 **110. (1)** Subject to subsection (2), an appeal lies from a decree of a court of summary jurisdiction of a State or Territory exercising jurisdiction under this Act to the Family Court or:

- (a) in the case of a court of summary jurisdiction of a State that has a Family Court of the State—to the Family Court of the State; or
10 (b) in the case of a court of summary jurisdiction of the Northern Territory—to the Supreme Court of the Northern Territory.

(2) An appeal lies to a court under subsection (1) only with the leave of the court.

15 (3) An application for leave to appeal under subsection (1) shall be made within the time prescribed by the Rules of Court or within such further time as is allowed in accordance with the Rules of Court.

20 (4) A Family Court of a State is invested with federal jurisdiction, and jurisdiction is conferred on the Supreme Court of the Northern Territory, with respect to matters arising under this Act in relation to which applications for leave to appeal are made under subsection (1) and appeals are instituted under that subsection.

(5) The Governor-General may, by Proclamation, fix a day as the day on or after which applications may not be made to the Family Court of a State or the Supreme Court of the Northern Territory for leave to appeal under subsection (1).

25 (6) A court hearing an appeal under subsection (1):

- (a) shall, subject to subsection (7), proceed by way of a hearing *de novo*, but may receive as evidence any record of evidence given, including any affidavit filed or exhibit received in the court of summary jurisdiction; and
30 (b) may make such decrees as it considers appropriate, including a decree affirming, reversing or varying the decree the subject of the appeal.

(7) Where a court has granted leave to appeal under subsection (1), the court may refer the appeal to a Full Court of the Family Court.

35 (8) Where an appeal is referred to a Full Court of the Family Court under subsection (7), the Full Court may:

- (a) proceed by way of a hearing *de novo*, but may receive as evidence any record of evidence given, including any affidavit filed or exhibit received in the court of summary jurisdiction;
40 (b) order that questions of fact arising in the proceedings be tried by a Judge;

- (c) determine questions of law arising in the proceedings and remit the appeal to a Judge for hearing in accordance with directions given by it; and
- (d) make such other decrees as it considers appropriate, including a decree affirming, reversing or varying the decree the subject of the appeal. 5

PART IX—MISCELLANEOUS

Duties of payers

111. (1) The payer of an enforceable maintenance liability shall, within 14 days after each occasion on which the payer commences to be an employee of an employer, notify the Registrar of the commencement by furnishing a duly completed approved form to the Registrar. 10

(2) The payer of an enforceable maintenance liability shall, within 14 days after the payer changes his or her name or address, notify the Registrar of the change by furnishing a duly completed approved form to the Registrar. 15

(3) A person who contravenes subsection (1) or (2) is guilty of an offence punishable on conviction by a fine not exceeding \$1,000.

(4) It is a defence to a prosecution for an offence against subsection (3) if the person charged proves that the person notified the Registrar of the happening of the relevant event as soon as reasonably practicable after the happening of the event. 20

Copies of maintenance orders and agreements to be forwarded to Registrar

112. (1) Where:

- (a) under the *Family Law Act 1975* or the law of a Territory: 25
 - (i) an order is made by, or registered in, a court; or
 - (ii) a maintenance agreement is registered in, or approved by, a court; and
- (b) the order or agreement makes provision in relation to:
 - (i) the maintenance of a child; or 30
 - (ii) the maintenance by a party to a marriage of the other party to the marriage;

the registrar or other responsible officer of the court shall, within 28 days after the day on which the event referred to in subparagraph (a) (i) or (ii) occurs, send a certified or sealed copy of the order or agreement to the Child Support Registrar. 35

(2) The Child Support Registrar may, by notice in writing served on the registrar or other responsible officer of a court, vary, in relation to the court, in such instances and to such extent as the Child Support Registrar thinks fit, the requirement of subsection (1). 40

Recovery of debts

113 . Debts due to the Commonwealth under this Act (other than under section 79):

- (a) are payable to the Registrar in the manner and at the place prescribed; and
- (b) may be sued for and recovered in any court of competent jurisdiction by the Registrar or a Deputy Registrar suing in his or her official name.

Application of payments

114. The regulations may, subject to section 70, make provision with respect to the application of payments received by the Registrar in cases in which the persons making the payments do not specify or indicate with reasonable certainty the manner in which the payments are to be applied.

Substituted service

115. Where:

- (a) a document is required to be served on a person for the purposes of proceedings against the person for the recovery of a debt due to the Commonwealth under this Act (other than under section 79); and
- (b) the Registrar is satisfied, after reasonable inquiry, that the person:
 - (i) is absent from Australia and has no attorney or agent in Australia on whom service of process can be effected; or
 - (ii) cannot be found;

service of the document on the person may be effected, without leave of a court, by posting the document or a sealed copy of it in a letter addressed to the person at the person's last known place of business or residence in Australia.

Evidence

116. (1) The mere production of a document signed by the Registrar or a Deputy Registrar purporting to be a copy of the entry in the Child Support Register in relation to a registrable maintenance liability is conclusive evidence:

- (a) except in proceedings under Division 1 of Part VII on an objection under section 82, that the liability is a registrable maintenance liability;
- (b) except in proceedings under Division 1 of Part VII on an objection under section 82, that the liability is duly registered under this Act;
- (c) that the particulars of the entry in the Child Support Register in relation to the liability are those set out in the document; and
- (d) except in proceedings under Division 1 of Part VII on an objection under section 82 or 83, that all of those particulars are correct.

(2) The mere production of a certificate in writing signed by the Registrar or a Deputy Registrar, certifying that an amount specified in the certificate was, on the date of the certificate, due and payable by a specified person to the Commonwealth in relation to a specified registrable maintenance liability or under a specified provision of Part IV, is *prima facie* evidence of the matters stated in the certificate. 5

Appearance by Registrar etc.

117. (1) In any action, prosecution or other proceeding under, or arising out of, this Act instituted by or on behalf of the Registrar or a Deputy Registrar, to which the Registrar or a Deputy Registrar is a party or in which the Registrar or a Deputy Registrar is a party or in which the Registrar or a Deputy Registrar intervenes or seeks to intervene, the Registrar or Deputy Registrar, as the case may be, may appear personally or may be represented by: 10

- (a) a person enrolled as a barrister, solicitor, barrister and solicitor or legal practitioner of a federal court or of the Supreme Court of a State or Territory; or 15
- (b) a person authorised by the Registrar or a Deputy Registrar, in writing, to appear.

(2) The appearance of a person, and the statement of the person that the person appears by authority of the Registrar or a Deputy Registrar, is *prima facie* evidence of that authority. 20

Judicial notice of signature

118. All courts and tribunals, and all judges and persons acting judicially or authorised by law or consent of parties to hear, receive and examine evidence, shall take judicial notice of the signature of a person who holds or has held the office of Registrar or Deputy Registrar. 25

False or misleading statements

119. (1) A person who:

- (a) makes a statement to an officer that is false or misleading in a material particular; or 30
 - (b) omits from a statement made to an officer any matter or thing without which the statement is misleading in a material particular;
- is guilty of an offence punishable on conviction by a fine not exceeding \$2,000. 35

(2) In a prosecution of a person for an offence against subsection (1), it is a defence if the person proves that the person:

- (a) did not know; and
 - (b) could not reasonably be expected to have known;
- that the statement to which the prosecution relates was false or misleading. 40

(3) A reference in subsection (1) to a statement made to an officer is a reference to a statement made to a person exercising powers under or in

relation to this Act, whether the statement is made orally, in a document or in any other form and, without limiting the generality of the foregoing, includes a statement:

- 5 (a) made in an application, form, notification, objection or other document made, given, lodged or furnished, or purporting to be made, given, lodged or furnished, under this Act;
- (b) made in answer to a question asked of the person under this Act; or
- 10 (c) made in any information furnished, or purporting to be furnished, under this Act.

Obtaining of information and evidence

120. (1) The Registrar may, for the purposes of this Act, by notice in writing, require a person:

- 15 (a) to furnish to the Registrar, within a reasonable period, and in a reasonable manner, specified in the notice, such information as the Registrar requires;
- (b) to attend before the Registrar, or before an officer authorised by the Registrar for the purpose, at a reasonable time and place specified in the notice, and then and there answer questions; and
- 20 (c) to produce to the Registrar, at a reasonable time and place specified in the notice, any documents in the custody or under the control of the person.

(2) The regulations shall prescribe scales of expenses to be allowed to persons required to attend under this section.

25 (3) A person who refuses or fails to comply with a requirement made under subsection (1) to the extent that the person is capable of doing so is guilty of an offence punishable on conviction by a fine not exceeding \$2,000.

Order to comply with requirement

121. (1) Where:

- 30 (a) a person is convicted before a court of an offence against paragraph 47 (1) (b) or subsection 120 (1); or
- (b) a court makes an order under section 19B of the *Crimes Act 1914* in relation to a person in relation to an offence against paragraph 47 (1) (b) or subsection 120 (1);

35 in relation to the refusal or failure of the person to comply (whether in whole or in part) with a requirement made by or under this Act, the court may, in addition to imposing a penalty on the person or making such an order in relation to the person, as the case may be, and even though the time for complying with the requirement or any other such requirement has
40 passed, order the person to comply with:

- (c) the requirement; and

- (d) such other requirements made, or that could be made, in relation to the person by or under this Act as the court considers necessary to ensure the effectiveness of the first-mentioned requirement;

within a specified time or at a specified place and time.

(2) Where an order under subsection (1) is not given orally by the court to the person to whom the order is addressed, the proper officer of the court shall cause a copy of the order to be served on the person in the prescribed manner.

(3) A person who contravenes an order under subsection (1) is guilty of an offence punishable on conviction by a fine not exceeding \$5,000 or imprisonment for a period not exceeding 12 months, or both.

Right of contribution

122. Where:

- (a) 2 or more persons are jointly or jointly and severally liable to pay a debt due to the Commonwealth under this Act; and
(b) one of those persons has paid the debt or part of the debt;

the person referred to in paragraph (b) may, in a court of competent jurisdiction, recover by way of contribution, and as a debt, from any of the other persons referred to in paragraph (a) such part of the amount paid as the court considers just and equitable.

Act not taxation law

123. This Act is not a taxation law within the meaning of the *Taxation Administration Act 1953*.

Application of Act to overseas orders and agreements

124. (1) This Act applies, with such modifications as are prescribed, in relation to orders (including interim orders) made under a law of a foreign country, being orders that are, under the *Family Law Act 1975* or the law of a Territory, registered in a court.

(2) This Act applies, with such modifications as are prescribed, in relation to maintenance agreements made under a law of a foreign country, being agreements that are, under the *Family Law Act 1975* or the law of a Territory, registered in or approved by a court.

Regulations

125. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters:

- (a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act;
and, in particular, may make regulations prescribing penalties not exceeding a fine of \$500 for offences against the regulations.
