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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

CHILD SUPPORT (ASSESSMENT) BILL 1989

SUPPLEMENTARY EXPLANATORY MEMORANDUM

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Amendments and New Parts, Divisions and Clauses to be
Moved on Behalf of the Government

(Circulated by authority of the Hon. Brian Howe, MP,
Minister for Social Security)

CHILD SUPPORT (ASSESSMENT) BILL 1989 - AMENDMENTS AND INSERTION
OF NEW PARTS, DIVISIONS AND CLAUSES

OUTLINE

The Acting Minister for Social Security introduced the Child Support Assessment Bill ('the Bill') into the House of Representatives on 1 June 1989. The overall objects of the Bill are to ensure that:

- . parents share the cost of supporting their children according to their capacity to pay;
- . adequate support is available to the children of separated parents; and
- . access to child support is simple, timely and flexible and respects personal privacy.

The Bill would provide for administrative assessment of child support by the Child Support Registrar which would be registrable under the Child Support (Registration and Collection) Act 1988.

2. The amendments to the Bill to be moved on behalf of the Government can be grouped as follows:

- (a) a new Part 1A which restates the availability of the counselling facilities of the Family Court or a Family Court of a State, to parties involved in the administrative assessment process;
- (b) a new Part 4A which sets out which agreements between liable parents and custodians covered by the Bill would be child support agreements and given effect to under the Bill. It also sets out the

relationship between agreements and administrative assessment and the ways agreements could be varied or discharged.

- (c) a new Division 4A in Part 5 to set out the powers of the courts to substitute child support in forms other than periodic amounts available by ways of administrative assessment. It also sets out the manner and extent to which the court would be able to order that child support in a form other than periodic amounts can be offset by the Registrar against the liable parent's assessed liability to child support in the form of periodic amounts. The Division also ensures that a custodian who is in receipt of an income tested pension, allowance or benefit is always entitled to apply to the Registrar to receive at least 75% of his or her assessed child support by way of periodic amounts.
- (d) amendments to enable the assessment process to take account of changed circumstances of the parties - such as changes in income or care arrangements for children;
- (e) an amendment to provide a secrecy provision that will balance the need to protect the confidentiality of tax information and other information necessarily obtained in the administration of the Scheme, as it relates to each parent, with the need for all parties to be aware of the matters taken into account by the Child Support Agency in making an assessment;
- (f) consequential amendments to the Child Support Act 1988, the Family Law Act 1975, the Social Security Act 1947 and the Taxation Administration Act 1953;

- (g) amendments relating to orders made by courts exercising jurisdiction under the Bill; and
- (h) minor technical amendments.

FINANCIAL IMPACT STATEMENT

3. The amendments will not have a significant financial impact.

**NOTES ON CLAUSES - AMENDMENTS TO CHILD SUPPORT (ASSESSMENT)
BILL**

Amendment (1): Clause 5 - Interpretation - definitions

1. The amendment omits the definition of "child support" and substitutes a new definition which provides that "child support" means financial support for a child under the Bill, including financial support by way of lump sum payment or by way of transfer or settlement of property.

2. The amendment also inserts a definition of "child support agreement" which is defined by reference to new clause 63B.

Amendment (2): Clause 5 - Interpretation - definitions

3. The amendment omits the definition of "child support percentage" and substitutes a new definition which provides that "child support percentage" is to be defined by reference to the tables in clauses 34, 45 and 51. The percentages depend on the number of children for whom a person is the liable parent.

4. The amendment inserts a definition of "child support terminating event" which is to have the meaning given by new clause 11A.

Amendment (3): Clause 5 - Interpretation - definitions

5. The amendment also inserts a definition of "court exercising jurisdiction under this Act" which would exclude courts exercising jurisdiction in proceedings under paragraph 63(a) from the term as used in the rest of the Bill, and inserts a definition of "court having jurisdiction under this Act" which is taken not to include a court with jurisdiction under the Bill solely for the recovery of child support amounts.

6. The amendment omits the definition of "custodian entitled to child support" and substitutes a new definition which provides that a custodian entitled to child support is defined by reference to clause 29 or, in relation to a case in which the liability to pay child support arose because of acceptance by the Registrar of a child support agreement, new clause 63P.

7. The omission of the definition of "de facto spouse" is consequent upon the substitution of a new definition of "married person" outlined below.

Amendment (4): Clause 5 - Interpretation - definitions

8. The amendment makes a minor drafting change.

9. The amendment also inserts a definition of "income tested pension, allowance or benefit" which is taken to have the same meaning as in the Family Law Act 1975. In that Act, the expression is defined as a pension, allowance or benefit included in a class of pensions, allowances or benefits prescribed for the purposes of that definition in subsection 4(1) of the Act.

Amendment (5): Clause 5 - Interpretation - definitions

10. The amendment omits the definition of "last relevant year of income" and substitutes a new definition which provides that the last relevant year of income, in relation to a person and a child support year, means the year of income immediately before the year of income that ended most recently before the start of the child support year. For example, for the child support year 1989-90, the last relevant year of income is 1987-88.