

Child Support Amendment Bill

Government Bill

As reported from the Social Services
Committee

Commentary

Recommendation

The Social Services Committee has examined the Child Support Amendment Bill and recommends that it be passed with the amendments shown.

Introduction

The child support scheme is primarily a back-up arrangement to operate when parents do not live together and cannot reach agreement over the financial support of their children. The measures in this bill, which seek to amend the Child Support Act 1991, are intended to provide for a fairer assessment calculation of child support payments that takes into account a wider range of individual circumstances.

Broadly speaking, the changes in the bill fall into three categories: a new child support calculation formula, which accounts for the bulk of the changes; secondary changes to update the child support scheme more generally; and amendments to the payment, penalties, and debt rules for child support.

The bill also proposes various technical amendments to the operation of the child support formula and the scheme.

Our commentary focuses on the main amendments recommended. Some issues on which our consideration did not result in recommendations for amendment are covered at the end of the commentary.

Commencement dates

We recommend an amendment to clause 2 to defer the implementation of the new child support formula from 1 April 2013 to 1 April 2014, and that of the other payment and penalties changes from 1 April 2014 to 1 April 2015. We consider this delay by one year necessary to accommodate the bill's legislative timeline and to allow the Inland Revenue Department sufficient time to prepare.

We also recommend the insertion of new subsection (1AA) into clause 2 to allow transitional provisions in new Schedule 1A to come into force immediately. This is needed to

- give the Commissioner the power to act as if Part 1 were in force for the purpose of preparing child support assessments in time for the 1 April 2014 commencement date
- enable transitional regulations to be made if necessary to ensure that notices of assessment based on the new formula are given by 1 April 2014.

The transitional provisions in new Schedule 1A would constitute new Schedule 1AA in the Act.

We took advice from the Regulations Review Committee about this new power and the principles that apply to powers of this kind. We made an amendment to clause 8 of Schedule 1AA to allay some of the concerns expressed by the Regulations Review Committee. The amendment would narrow the provision to clarify its limited and temporary transitional purpose.

Some of us are concerned that their advice on mitigating the impact of the Henry VIII powers was not adopted more fully by the committee. The Regulation Review Committee expressed concern that these exceptional powers avoid the use of primary legislation. The motion that “the proposed child support amendment legislation be amended to allow normal and transparent parliamentary scrutiny to apply as recommended in its entirety by the Regulations Review Committee” was defeated.

Applications for assessment against the child support formula

Social security beneficiaries must apply for a formula assessment

Clause 9, new section 9, would require a social security beneficiary who is a receiving carer and has no existing child support arrangement to apply for a formula assessment in relation to every parent of the child.

We recommend amending new section 9 to make it clear that if a social security beneficiary already received child support they would not have to apply for a formula assessment, unless they were receiving child support as a result of an overseas order.

Applications by third-party carers

As introduced, clause 9, new section 10, would require an applicant for an assessment against the child support formula to provide certain specified information.

We recommend amending clause 9, new section 13, to give the Commissioner discretion to require applicants to provide further information if it is necessary to complete a formula assessment, and not take further action until it is received.

We also recommend inserting new clause 22A, which would insert new section 179A into the Act, to allow a third-party (non-parent) carer to waive their right to receive some or all child support payments from a liable parent, for example where a person caring for their grandchild did not wish to receive child support payments from their own child.

Estimation provisions

We recommend deleting clause 12 and replacing it with new clause 11A, which would replace sections 40–45 of the Act. These sections would allow Inland Revenue to base child support income calculations on estimated income for the current year for both parents, and to ensure that receiving carers and liable parents would not incur a debt (for any months before the estimate was made) as a result of an estimation. The main policy change in these sections is that reconciliation should be made only for the future periods for which the

parent has estimated their income, not for the whole year, as is currently required. This would entail a number of consequential and minor technical amendments. For example, under the Act, if a liable parent whose income has fallen significantly applies late in the year for a formula assessment based on an estimated income, he or she could be found to have overpaid child support. Under the present system, the receiving carer has to repay the difference. Under the proposed amendments, any estimate of income resulting in a reduction in child support liability would be applied only to future payments. This would mean that a receiving carer could no longer be found to have incurred a historical debt resulting from an estimation.

Transitional issues for departures

As stated under the section entitled “Commencement dates” on page 2, we recommend inserting new Schedule 1A, which would insert new Schedule 1AA into the Act. As well as allowing the Commissioner to prepare new assessments ready for the 1 April 2014 commencement date, the schedule provides for what happens to existing departures that would apply after that date. Determinations by the Commissioner must be applied to the new assessments if they relate to elements in the new formula, otherwise they must be disregarded. Orders of the court must continue to be applied until they expire or one of the parties seeks a variation.

Establishing care levels

Because clause 9, new section 15(5), is intended to specify only factors that the Commissioner should consider when establishing proportionality of care, we recommend deleting the paragraphs that refer to decisions that relate mainly to guardianship rather than day-to-day matters. We also recommend amending new section 15(5) to require that, if the Commissioner is satisfied that the number of nights that a child spends with a carer does not reflect accurately the proportion of care provided, the Commissioner must establish the correct proportion of care according to “the amount of time that a carer is the person responsible for the daily care of the child.”

To address inconsistencies in the new section, and for clarification, we also recommend amending clause 9, new section 15(1), to state that unless a parent or carer shows that it must not be relied on, the

Commissioner “must” rely on the contents of a care order or agreement when establishing the proportion of on-going daily care. We also recommend amending new section 15(3) to ensure parents could rebut this presumption.

Receiving carers and liable parents

Most of us recommend amending clause 9, new section 17, so that a carer could not be a receiving carer until their proportion of on-going daily care reached 35 percent. However, care from 28 to 34 percent would still be recognised for formula calculations. This aims to remedy the situation where up to three non-parent carers could be entitled to child support. The effect would be that there could be no more than two receiving carers. This change is reflected in other recommended amendments to clause 9, new sections 9, 10, and 25.

We recommend amending clause 9, new section 17, to make it clear that a parent would always be a liable parent, whatever their income, if they provide less than 28 percent of on-going daily care (meaning their care cost percentage is nil) or their income percentage is greater than their care cost percentage.

Parents and receiving carers to advise of changes

We recommend amending clause 14, new section 82, by inserting new subsection (4). New section 82 as introduced would require parents and receiving carers to advise the Commissioner of any change in living circumstances (since it might affect their child support liability), and when a liable parent informed Inland Revenue of a reduction in their care level, Inland Revenue would be required to make the appropriate changes from the date of the event. However, if the receiving carer informed Inland Revenue of a liable parent’s reduction in care, Inland Revenue would have to make the change from the date of notification. A potential conflict might arise if both made notifications of the same change. New subsection (4) would give the Commissioner a new discretion to determine when a change of circumstances should be treated as occurring, should the rules in new section 82 give rise to conflicting results. This would be an appealable determination.

Varying child support orders

Clause 21 proposes to amend section 106(1), which allows the court to vary any component, or the application of any component, of an assessment of child support under a formula assessment. Given the complexity of the child support formula, we recommend an amendment to specify that the court may vary adjusted taxable income, living allowance, dependent child allowance, child support income amount, and child expenditure amount. We also recommend the inclusion of a broader power for a court to vary the annual amount of child support for a specified period, or order a specified variation to the annual amount.

Qualifying payments

We recommend amending clause 27, new sections 131 and 131A, to give the Commissioner discretion to reduce the amount of child support payable to recognise “qualifying payments”, which are payments other than assessed child support made by a liable parent for a child’s benefit. This would allow recognition of qualifying payments for more than one child support year, and for agreements to be made at any time. We also recommend allowing the Commissioner to reverse such a decision when a parent’s circumstances change—such as the receiving carer going on to a sole parent benefit.

We consider the provisions regarding qualifying payments in the bill as introduced would be too restrictive, so that very few parents or carers would be able to use them. The proposed amendments would extend the range of qualifying payments to include payments such as school fees.

Living allowance for carers of the sick or infirm

Clause 11, new section 34, would increase the living allowance applicable to parents on a domestic purposes benefit who are caring at home for someone who is sick or infirm. To be equitable, we recommend an amendment to extend the increased allowance to parents who are in receipt of an invalid’s benefit for a single parent with one or more dependent children.

Prisoner and long-term hospital patient exemption

We recommend inserting new clauses 15A and 15B. New clause 15B would provide an exemption for prisoners from having to pay child support when certain income was earned before their imprisonment, but received afterwards. Because payments are often made in arrears, many beneficiaries and employed liable parents receive a final benefit payment or wages on or after imprisonment. This makes them ineligible for the exemption from paying child support for that period, so child support debt is accrued while they are in prison. The exemption seeks to improve prisoners' compliance with child support by ensuring they will no longer be burdened with outstanding child support debts on their release. For consistency, the recommended amendment would be provided on the same basis for long-term hospital patients (new clause 15A).

Dependent child allowance

We recommend an amendment to clause 11, new section 35, to ensure that all dependent children for whom a parent has responsibility are taken into account when calculating the dependent child allowance. The provision as introduced provides for the dependent child allowance to be calculated for each child in their child support group. However, it includes only children with the same parents, whereas the policy intent is for the allowance to be calculated on the basis of the number of dependent children the parent is responsible for, which may, for example, include children who do not share the same other parent.

Automatic deductions from salary and wages

We were concerned that when a parent is identified as an "automatic deduction person", the automatic deduction of child support from their salary or wages could result in privacy, cultural, and other issues with employers having knowledge of an employee's child support details.

We recommend amending clause 27, new section 129, by inserting new subsection (1A)(c), to make it clear that where there are legitimate issues, the Commissioner would have the discretion not to automatically deduct child support payments from salary and wages, but instead to allow alternative methods of payment. A person could

make an application for automatic deduction to be waived, or the Commissioner could exercise discretion on his or her own motion. Our understanding is that before any automatic deduction is put in place, people who would be affected should be informed by Inland Revenue that they can apply for the discretion to be exercised.

Required identity information

We recommend inserting new clause 25A to provide for a consequential amendment to Schedule 1A of the Births, Deaths, Marriages and Relationships Registration Act 1995 to allow the Department of Internal Affairs to disclose to Inland Revenue the parentage, dates of birth, and death information for qualifying and dependent children, in addition to the birth, marriage, civil union, and name-change information already allowed to be disclosed under that Act.

This would allow the Commissioner to confirm these details, making the scheme easier to administer, both from parents' and Inland Revenue's perspective, than it would be if the Commissioner had to contact each parent to obtain the information; around 50,000 parents would be affected.

Offsetting liabilities

We recommend inserting new clause 40F to replace new section 152B to allow a liable parent to offset current child support liability against child support entitlements owed to them by another parent either in New Zealand or in a country with a reciprocal child support agreement with New Zealand. For example, this would remedy the situation where one parent might be owed significant arrears of entitlement in respect of a child, but then incur a liability if the other parent took over care of that child.

Commissioner's ability to write off liabilities

When one party dies

Currently, the Commissioner cannot write off child support debt when a liable parent or receiving carer dies. The debt remains payable indefinitely, even though repayment is highly unlikely. We recommend amending clause 42 by inserting new sections 180B and 180C, to give the Commissioner discretion to write off financial

support owed when a receiving carer dies, or to write off the debts of a liable parent if there are insufficient funds in the estate to satisfy the liability.

Incremental penalties

Clause 36 seeks to amend section 135J by requiring the Commissioner to write off incurred incremental penalties when a payment agreement has been complied with during a review period if the payment arrangement was entered into on or after 26 September 2006 but before 1 April 2014.

We recommend amending clause 36 to allow the Commissioner to also write off incremental penalties for payment arrangements entered into on or after 1 April 2014. This would provide additional incentive for parents to enter into and commit to payment agreements where they might not meet the criteria for write-off under serious hardship.

Penalties incurred by receiving carers

We recommend inserting new clauses 40A and 40B to amend section 151 of the Act, and inserting new section 151AA into the Act, to make the charging of penalties due to overpayment of child support at the Commissioner's discretion rather than compulsory.

Because overpayments are often outside receiving carers' control, it would be inappropriate for them to be charged penalties. The recommended insertions should address this issue.

Due to inefficient use of departmental resources and cases of serious hardship

We recommend extending clause 42, proposed new section 180A, to include provision for the Commissioner to write off some or all child support payable to the Crown if the receiving carer is or was a social security beneficiary and recovery would either or both (a) place the liable parent in serious hardship, or (b) the collection would represent an inefficient use of Inland Revenue's resources.

Other matters considered

Inclusion of the well-being of the child as a core object

We discussed whether an amendment to include the promotion of the well-being of the child as a core object of the Act should be considered.

Some of us support the view that New Zealand's obligations under Article 3 of the United Nations Convention on the Rights of the Child, as raised in the submission of the Children's Commissioner, should be explicitly recognised by inserting a reference to the welfare of the child in the objects clause of the bill (clause 6).

Although the Act focuses on the technicalities of attributing responsibility for child maintenance, rather than what it means for the child, the objects of the Act already include the right of the child to be maintained by their parents. The Act is ultimately intended to provide for the maintenance of children in divided families. While we recognise that the proposal amounts to a policy shift, it is not so far removed from the existing objects of the Act that a general amending bill of this nature could not contemplate such an amendment. This is particularly so if any possible drafting would not include machinery provisions that would further implement the new object. In principle, and in the absence of a specific draft proposal, an amendment of this nature would appear to be within the scope of the bill.

While recognising New Zealand's international obligations, most of us are of the view that amending the bill in this way would not be appropriate.

Recommending amendments to object provisions needs very careful consideration, as these provisions provide guidance on the interpretation and implementation of the provisions of the legislation. Additionally, such an amendment would amount to a significant policy shift that was not envisaged when the bill was introduced, one that would be likely to create significant uncertainty in the administration of the Act as it could be understood to place Inland Revenue in the position of having to establish, in each child-support case, whether the individual measures in the Act had achieved this new object.

Instead of amending the bill to reflect New Zealand's international obligations, we would support a change to administrative practice, whereby Inland Revenue would consult a body better placed to determine the welfare and needs of children (such as the Children's

Commissioner) before setting administrative guidelines relating to the exercise of discretionary powers conferred under the Act.

Adequacy of allowances for 0–4-year-olds

Some of us are of the view that the “cost of children” calculations in Schedule 2 do not account for the additional costs of caring for children aged up to 4 years, such as foregone earnings or paid childcare. However, we note that, given Australian studies have found the cost of caring for a 0–4-year-old, as a percentage of income, was between 4 and 8 percent lower than that of caring for a 5–12-year-old, additional recognition for 0–4-year-olds has been built into the schedule by applying a single rate for 0–12-year-olds. Most of us also agree that the purpose of the scheme was not to compensate carers for indirect or opportunity costs, but to recognise the direct costs of caring for children.

Impact on women

We noted that as the majority of receiving parents are female, women are more likely to be adversely affected by the proposed changes than men. However, it was also noted that women who are on a social security benefit, and might be least well placed to cope with a reduction in income, would therefore be largely unaffected as child support payments for their children are retained by the Crown to offset the cost of social security payments.

While we acknowledge that a small number of women who are receiving carers could be worse off, most of us agree that the scheme can be expected to be fairer overall.

New Zealand Labour Party minority view

The New Zealand Labour Party believes this bill represents a lost opportunity to address the well-being of children in vulnerable families.

Welfare of children not prioritised

In select committee we heard submissions from a large number of submitters representing wider constituencies affected by the legislation. Among the most consistently suggested improvements for the

legislation was making the promotion of child well-being a core object of the Child Support Act.

Most comparable western jurisdictions prioritise children in their relevant legislation.

Failure to amend our legislation might be considered a breach of New Zealand's commitments as contained in Article 3 of the United Nations Convention of Rights of the Child (UNCROC).

That child well-being should be a core object of the Act was raised in submissions presented by the Auckland Coalition for the Safety of Women and Children, the Child Poverty Action Group, the Dunedin Community Law Centre, the Families Commission, the Human Rights Commission, the New Zealand Law Society, the Office of the Children's Commissioner, the Equal Justice Project, and the Women's Studies Association.

Constructively, the Office of the Children's Commissioner submitted that the objects put forward in clause 6 of the bill should be amended to include within section 4 of the Act both an overarching object promoting child well-being and primary consideration of the welfare and best interests of the child.

Specifically, the Children's Commissioner suggested a new section 4(a) "to affirm the right of children to be maintained by their parents and the promotion of their on-going well-being and healthy development following parental separation" and a new section 4(l) "to require that, in all decisions and actions made under the Act, the welfare and best interests of the child shall be the paramount consideration".

Changes to ensure that the legislation is serving the best interests of affected children would ensure social and economic benefits to our country were maximised in future years. We question the Government's priorities in refusing to include the welfare of the child as a primary object of the legislation.

Our request to write to the Minister to request that broadening of the Act be considered to ensure children are put at the heart of the legislation was blocked by Government members of the committee.

A second and subsequent request to seek further advice from officials—on inclusion of reference to UNCROC obligations to the objects whilst preserving the integrity of the Act as giving effect to a clear administrative formula largely free of litigation opportunities—was also blocked by the Government members.

Adequacy of payments

Submitters raised concerns about the adequacy of payments using the formula proposed in the legislation, particularly given that a significant portion of New Zealand's children are currently raised in poverty. The most recent expert advisory group report on vulnerable children estimates that 25 percent of New Zealand's children are living in poverty. Officials had been directed to base support amounts on current practice. This means in effect that the current practice of raising children in poverty is perpetuated by the legislation. This is far from ideal.

Pass-on mechanism

Expert submitters recommended using a pass-on mechanism to increase the collection of support payments. International evidence supports use of a pass-on mechanism as a way of improving compliance amongst liable parents.

The Children's Commissioner in particular was critical of the understatement in the supplied Regulatory Impact Statement, which said that pass-on "may" affect payment. International evidence is clear that a pass-on mechanism "does" improve payment rates amongst liable parents. While we acknowledge the fiscal constraints that all governments operate within, we believe the Government should have at least expressed a view on whether the objective of pass-on was worthy of consideration.

Implications for women

The legislation has significant implications for women. On average, women earn less than men and are more likely to be primary care-givers. The overall effect of this bill is to apportion a greater share of the cost of child-rearing to women. Many women would be worse off as a result of this legislation.

We believe the 28 percent shared-care threshold in the legislation is too low. Parents caring for a child two days a week are unlikely to share a proportionate responsibility for providing the basics of life. While food bills might be shared proportionately, the primary care-giver is more likely to be responsible for school costs, uniforms, and clothing, as well as medical, dental, and other treatments.

The chosen threshold is likely to proportionately disadvantage women who remain the most common providers of majority care in a shared-care arrangement.

Transparency

We have concerns about the transparency of the formula. To be perceived as fair and to facilitate planning by affected parties, a formula must be as simple as possible to understand. Parents affected by the legislation are generally those who have not been able to find a mutually agreeable sharing of responsibilities and, as such, are likely to experience on-going tensions around the provision of care and sharing of obligations. As a general rule, the more certainty and transparency around future obligations, the better for the sake of harmony in the relationships surrounding the children being cared for.

Automatic deductions

We have raised concerns about unintended consequences contained in provisions that strengthen Inland Revenue's ability to make automatic deductions, without consent, from the wages of liable parents. The legislation normalises the use of such measures. It places the onus on parents to notify Inland Revenue when they believe—for cultural or privacy reasons, or other exceptional circumstances—their employer should not know about their wider family circumstances. It is an "opt out system".

Until now, automatic deductions from an employee's wages have only been permitted on an "opt in" basis. Accordingly, Inland Revenue guidelines for notifying liable parents of intent to disclose personal information to an employer have not yet been developed.

Natural justice dictates that a liable parent should have the ability to object to the disclosure of information relating to their personal circumstances before it is provided to an employer. Recent unfortunate and unjust disclosures of personal information by the State mean that we will not be alone in closely monitoring the implementation of this practice.

We are also concerned about additional red tape for affected businesses. In addition to concerns surrounding protection of the employee's personal information, we have concerns about the imposition of additional responsibilities on employers. The additional cost

of implementing liable parent deductions would rest with the employer, as well as responsibility for confidentiality. These are burdens employers currently do not face.

In cases where personal information is not successfully protected by employers, inadvertently or otherwise, business owners might also be opened up to accusations about misuse of such data in employment disputes. The State currently does not place responsibility for this risk with business, and we are not aware of any consultation with businesses about the effects of imposing these additional compliance costs on them.

Costs of administration

Inland Revenue reports that it is expecting a 15 percent increase in the workload associated with administering what is already “Inland Revenue’s most expensive product to administer on a per person basis”. The Government is expecting costs for administering the system to go up, even beyond the initial additional costs associated with generating resources explaining the new formula and training staff how to use it. It estimates additional costs of \$91 million, and has allowed \$28 million contingency beyond that in recognition of the significant IT risk involved in setting up the new scheme.

When the legislation does not provide the fairest possible solution on the question of child support, it is difficult to justify the additional costs incurred.

Adequacy of Inland Revenue computer systems

We continue to have concerns about the adequacy of computer systems at Inland Revenue. These concerns have been exacerbated by recent privacy breaches at the Accident Compensation Corporation and the Ministry of Social Development.

The Prime Minister admitted in February 2012 that the 20-year-old legacy FIRST computer system is a reason significant changes to the tax system are not able to be contemplated by this Government. Government officials indicated to the select committee that even the implementation of this proposed legislation is limited by Inland Revenue’s current computer system. It is not able to handle all of the changes proposed in this legislation in one go. This is the reason that the implementation of changes is staggered.

Concerns expressed by the Prime Minister, and recent privacy breaches, raise legitimate questions about proceeding with risky projects of dubious value at a time when Inland Revenue is ill-equipped to handle new policy.

Furthermore, the implementation effort for each new piece of legislation introduced by Inland Revenue is likely to require duplication when a new up-to-date computer system is finally installed at the department. This represents inefficient use of taxpayer resources.

Concluding remarks

The Government has had plenty of opportunity to ensure this bill represents a fair way forward. A consultation process that preceded this bill took several years to report back. Yet, despite the significant passage of time, the Government has failed to generate an outcome that is transparent, fair, and representative of value for taxpayer money.

Beyond around \$100 million in costs associated with administrative changes over ten years, the taxpayer would directly pick up an additional \$42 million over the same period. The \$42 million is an estimate of the net increase in taxpayer subsidy of the scheme due to reduced expectations of liable parents and more optimistic assumptions about collection of liabilities. This additional cost to taxpayers is hard to justify alongside the introduction of an imperfect system.

The Expert Advisory Group on Solutions to Child Poverty estimated that 270,000 New Zealand children are living in poverty. In our country, 133,000 children live in sole-parent households that are in receipt of child support payments. This legislation represents a missed opportunity to bring many of these children out of poverty in order to ensure they have the best possible start in life.

Green Party minority view

Introduction

Green Party members of Parliament support the objective of a fair, transparent child support scheme to provide financial support to children whose parents or caregivers cannot mutually agree on the financial contributions they will make to support their children. A key objective of such a scheme should be to maximise the best interests of the child or children concerned.

We do not support the passage of the Child Support Amendment Bill. We are concerned that the complexities of the new formula it introduces would enhance neither fairness nor transparency, and may have disproportionately negative impacts on women, especially sole parents, by reducing their entitlements. We believe that the bill is a missed opportunity to enshrine a commitment to act in the best interests of children within the objects of the scheme. It is also a missed opportunity to demonstrate this commitment by legislating for the pass-on of child support payments to beneficiary parents and for state guaranteed or “advance” child support payments. The costs of administering the new system, estimated by officials to be approximately \$91 million, are substantial, and we are not convinced that these costs can be justified for the introduction of a flawed formula that does not maximise child well-being.

United Nations Convention on the Rights of the Child

We heard from submitters, including the Office of the Children’s Commissioner, the Families Commission, the Human Rights Commission, and the New Zealand Law Society, that the bill should amend the objects of the Act to incorporate the best interests of the child. To do so would be consistent with New Zealand’s obligations under Article 3 of the United Nations Convention on the Rights of the Child.

We agree with submitters and are disappointed that the committee has not taken the opportunity to insert such a provision into the objects of the Act. We do not consider the suggestion that Inland Revenue consult with the Children’s Commissioner when setting administrative guidelines relating to the exercise of its discretionary power under the Act is an adequate or appropriate way to give effect to New Zealand’s obligations under this important international convention.

“Pass-on” and “advance” child support payments

One way to improve the child support scheme consistent with a commitment to maximise the best interests of the child would be to legislate for child support payments to be passed on to receiving parents who are beneficiaries, instead of being retained by the Crown. At present, if the receiving parent is a beneficiary, any child support payments from the liable parent are retained by the Crown as a way

of “offsetting” the cost of the benefit. The money paid by the liable parent does not directly benefit the child in any way. This is both a disincentive to liable parents to meet their obligations and a missed opportunity to directly improve the lives of thousands of children.

Numerous submitters, including the Office of the Children’s Commissioner, the Families Commission, and the Child Poverty Action Group, submitted that the child support scheme could substantially contribute to decreasing child poverty if the Crown passed on child support payments to sole parents on benefits. This would be an effective and efficient method of reducing poverty and increasing income support for affected families. This was also a key recommendation of the recent proposals paper by the Experts Advisory Group on Solutions to Child Poverty. We agree and are disappointed that the bill does not take the opportunity to implement this change.

Similarly, we agree with submitters who suggested that the Crown should automatically advance child support payments to receiving parents to avoid the instability and delay of payments when a liable parent does not regularly meet their obligations. This would seem consistent with a child support scheme designed first and foremost to maximise the interests and security of the child, and would also help to alleviate the damage caused to children by poverty and financial instability.

Inappropriate cost calculations in formula

We are concerned that the proposed new formula accords extra support to parents with older children in recognition of the fact that there are additional costs associated with having older children in terms of food, clothes, and other expenses. This approach seems to ignore the opportunity costs (for example of paid employment) foregone by parents with younger children, and does not take into account expert advice, including that from the Office of the Children’s Commissioner, that investment in the early years (especially the first three years) is of critical importance to a child’s long-term prospects. We would like to see a formula that better reflects the importance of these early years in the calculation of child support amounts.

Complexity, transparency, fairness, and cost of the new formula

Officials have acknowledged that the new child support formula introduced by this bill is more complex than the formula it replaces. It introduces a large number of new variables that would make it very difficult, if not impossible, for the average parent to calculate or check their entitlements or liabilities themselves. Like the New Zealand Law Society, we are concerned that the complexity of the new formula detracts from the simplicity, efficiency, equity, and transparency of the child support system. Parents should be able to easily understand their liabilities and entitlements so that they might have confidence in the fairness of the scheme. After this bill is passed they would only be able to check their entitlements and liabilities using online calculators that would not be able to provide them with the full information (such as the other parent's income) needed to accurately calculate the figures. They would have to trust that the complex system has generated a fair outcome.

Furthermore, the complexity of the new formula would place a considerable burden on Inland Revenue's computer and administration systems. Officials agree that "fundamental changes will be required to Inland Revenue's child support systems and business processes to administer the reformed scheme because of the additional complexity of the new child support formula" and estimate the total costs (excluding contingency) for system changes and additional work volumes relating to the changes at \$91.440 million. This is a significant cost that cannot, in the Green Party's opinion, be justified given the bill's dubious benefits.

Reduction of entitlements and disproportionate impact on women

We are concerned that the new formula would result in a disproportionate reduction in entitlements under the child support scheme for female sole parents. Figures suggest that almost 30,000 female parents receiving child support could experience a reduction in their monthly child support receipts as a result of the new formula. In one worked example, a sole parent with two children who spend two nights per week with the other parent would have their annual child support entitlement reduced by 36 percent, or more than \$3,000 per year. Such changes would have a significant negative impact on thousands of sole parents and their children, especially women. With ex-

amples like this, we are not convinced that the new formula would produce fairer outcomes than the existing scheme, and certainly not outcomes that prioritise the best interests of the child.

Conclusion

The Green Party has listened carefully to submitters and considered attentively the details of the proposed changes in this bill. While we support the objective of a fair, transparent, and equitable child support scheme, we consider that such a scheme should have at its heart the best interests of the children concerned. We are disappointed that this bill does not take the opportunity to enshrine this principle at the heart of the child support scheme, and we are concerned that it may in fact have the opposite effect. For these reasons we are unable to support this legislation.

New Zealand First minority view

New Zealand First is concerned about a number of changes proposed in the Child Support Amendment Bill.

Lower levels of shared care

The new formula will consider that if a parent has had at least 28 percent (on average two nights a week) of on-going daily care, the cost of supporting a child will be apportioned between parents according to the difference of income, adjusted by their share of care.

We are concerned about what implications this will have on split shared care. For some families with more than one child, the amount of child support may differ for siblings depending on which parent the child stays with.

We support that with the new formula, paying parents would have their share of care acknowledged. In the interest of the child, studies have shown that it is more beneficial for children to have on-going contact with both parents rather than just one.

Determining shared care

The proposed changes will recognise shared care of more than 28 percent. On average this amounts to two nights a week. We are concerned about shared care that does not involve the child staying

overnight. It is common for paying parents to have daytime care which is far more costly than the parent who receives the child support. We accept that there may be issues in calculating hours, which is why nights have been preferred. We support the discretion given to the Commissioner for grounds to depart from formal assessments. Such circumstances should be considered as resulting in an unjust and inequitable decision on the level of financial support to be provided by a paying parent.

We support the recommendation from Inland Revenue to rely on parenting orders or agreements to establish the percentage of shared care for child support. Not only will this provide for the efficient processing of child support, but will also reinforce court decisions made with the best interests of the child.

Total income of both parents

We are concerned about the highly complex formula. It will be difficult for parents to determine themselves their liabilities and entitlements.

With using both parents' income, we are concerned about the complexity of administering the scheme. People change employment and come in and out of work often. When a parent's income is reduced, the receiving parent will receive less. If the receiving parent's income changes, the paying parent's payable amount will also change. With income levels, there is uncertainty and instability. Considering that most of these families have been through a separation, we are concerned that these changes will further impact on these relationships. Furthermore, the proposed changes do not address the possibility of self-employed liable parents to use tax deductions to reduce their child support, which does not reflect their standard of living.

The Government's recent welfare changes will affect this child support scheme. Parents required to enter the workforce also face the possibility of a decrease in the amount of child support they receive from the paying parent.

Expenditure for raising children

The new child support formula is set to vary with the age of the child. We are concerned with the assumption made that there is a set amount in raising children depending on their age. The reality is that not all

children at a certain age will cost the same to raise. Different locality is not taken into account, with some children having more costs than others, such as sporting interests, extra tuition, and sick children. There will always be expenses paid by a parent that will not equate to the amount they receive in child support. We are not convinced that the new formula for child support accurately reflects the cost of raising children with different family circumstances and the different socio-economic statuses of different areas of New Zealand.

Administration and payments

We are concerned with the complexity of the new formula and the difficulty of administering the scheme when child support will now vary according to shared care-time, parental income, and estimates of expenditure for raising a child at a certain age in New Zealand. Child support amounts will differ every year and with the additional consideration of both parents' income, there is very little certainty.

There is lack of evidence to show that in considering shared care for both parents that this will not result in an increase of child support debt. We understand that with shared care now taken into consideration, child support will be more fair and equitable. However, there is no evidence that paying parents will be more likely to pay child support. There are many other plausible reasons in family dynamics that explain why people refuse to pay child support.

New ground for the Commissioner to grant a departure from a formula assessment

We support the recommendation that re-establishment costs be considered after a separation in the calculation of child support. We recognise that when a relationship ends, a parent should be given the opportunity to get on their feet.

Conclusion

We support the move for improvement to the current system and we accept that it is difficult to find a new formula for child support that satisfies everyone. However, the new proposed formula is not without some serious concerns.

Appendix

Committee process

The Child Support Amendment Bill was referred to the committee on 8 May 2012. The closing date for submissions was 20 June 2012. We received and considered 59 submissions from interested groups and individuals. We heard fifteen submissions in Wellington. We received advice from the Inland Revenue Department.

Committee membership

Peseta Sam Lotu-Iiga (Chairperson)

Jacinda Ardern

Hon Simon Bridges

Dr David Clark

Melissa Lee

Jan Logie

Le'aufa'amulia Asenati Lole-Taylor

Tim Macindoe

Alfred Ngaro

Dr Rajen Prasad

Mike Sabin

Holly Walker replaced Jan Logie for this item of business.

Child Support Amendment Bill

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Peter Dunne

Child Support Amendment Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Child Support Amendment Act **2011**.

2 Commencement

(1AA) Sections 5A, 22D, and 22E come into force the day after the date of Royal assent. 5

(1) This ~~The rest of this~~ Act, except **Part 2**, comes into force on **1 April 2013 2014**.

- (2) **Part 2** comes into force on **1 April ~~2014~~ 2015**.

3 **Principal Act amended**

This Act amends the Child Support Act 1991.

Part 1

Formula assessment of child support

5

4 **Long Title repealed**

The Long Title is repealed.

5 **Interpretation**

- (1) Section 2(1) is amended by repealing the following definitions: **child support percentage, eligible applicant, eligible custodian, principal provider of ongoing daily care, properly made, qualifying custodian, relevant average weekly earnings amount, shared custody child, and substantially equal sharing of ongoing daily care.** 10

- (2) Section 2(1) is amended by inserting the following definitions in their appropriate alphabetical order: 15

“**adjusted taxable income** has the meaning in **section 33**

“**annual amount of child support** means the amount payable in a child support year by a liable parent in respect of a qualifying child 20

“**annual rate of child support** means the total amount payable in a child support year by a liable parent in respect of all of his or her qualifying children

“**care cost percentage** means the percentage of costs associated with providing a proportion of ongoing daily care to a child; and, in relation to a particular parent or carer of a child, is the percentage set out in column 2 of the table in **Schedule 1** that reflects the proportion of ongoing daily care that the Commissioner establishes (under **section 14**) that the person provides to the child 25 30

“**care order or agreement** means any of the following that are in force:

- “(a) a parenting order made under section 48(1) of the Care of Children Act 2004:

- “(b) an overseas parenting order as defined in section 8 of the Care of Children Act 2004:
- “(c) any agreement (not being an order referred to in **paragraph (a) or (b)**)—
 - “(i) that the parents of a child agree to treat as binding on them; and
 - “(ii) that identifies the proportion of care that each parent and carer of the child will provide to the child
- “**carer** means, in relation to a child, a person (whether or not a parent) who provides ongoing daily care to the child, other than on a commercial basis
- “**child expenditure amount** has the meaning set out in **section 29(1A)**
- “**child expenditure table** means, in relation to a child support year, the child expenditure table approved by the Commissioner under **section 36D** applying to that year
- “**child support group**, in relation to a parent who has more than 1 qualifying child, means the qualifying children of that parent who all share the same other parent
- “**income percentage** means, in relation to a parent of a qualifying child, that parent’s percentage of the combined child support income amounts of all the child’s parents, as determined under **section 31**
- “**receiving carer** means a carer of a child in respect of whom child support payments are payable under this Act by a liable parent of the child
- “**tax year** has the meaning in section YA 1 of the Income Tax Act 2007
- “**taxable income** has the meaning in section YA 1 of the Income Tax Act 2007”.

5A **New section 2A inserted**

The following section is inserted after section 2:

- “**2A** **Provisions affecting application of amendments to this Act** **Schedule 1AA** contains application, savings, and transitional provisions relating to amendments made to this Act after

1 April 2014 that affect other provisions of this Act (*see section 276*).”

6 Objects

- (1) The heading to section 4 is amended by adding “**and overview of this Act**”.
- (2) Section 4 is amended by repealing paragraph (c).
- (3) Section 4(d) is amended by omitting “according to their capacity to provide financial support” and substituting “according to their relative capacity to provide financial support and their relative levels of provision of care”.
- (4) Section 4 is amended by inserting the following paragraph after paragraph (f):
- “(fa) to affirm the right of carers who provide significant care to children to receive financial support in respect of those children from a parent or parents of the children.”
- (5) Section 4(g) is amended by omitting “caregivers” and substituting “carers”.
- (6) Section 4(h) is amended by omitting “between custodial and non-custodial parents” and substituting “between parents and, where applicable, carers”.
- (7) Section 4(j) is amended by—
- (a) omitting “custodians” and substituting “carers”; and
- (b) omitting “non-custodial” and substituting “liable”.

7 New section 4A inserted

The following section is inserted after section 4:

“4A Overview of child support payable under formula assessment

- “(1) A person who provides care for a qualifying child and parent or non-parent carer of a qualifying child, who does not live with a parent of the child in a marriage, civil union, or de facto relationship, may apply to the Commissioner for a formula assessment of child support payable for that child by a liable parent.
- “(2) The Commissioner will then determine the proportion of care that each carer of the child provides, and the income of each parent of the child, and, using that information, will identify

the parent or parents who are liable to pay child support, and the carer or carers who are entitled to receive child support, in respect of the child.

- “(3) A person will be a liable parent in respect of a child if he or she provides less than 28% of the ongoing daily care to the child 5
or if his or her percentage of the combined child support income amounts of both the child’s parents (the person’s income percentage) is greater than the person’s care cost percentage 10
 (which is a cost percentage directly related to the proportion of care that the parent provides to the child). 10
- “(4) The amount of annual child support payable by a liable parent for a qualifying child is determined under Part 2, and is worked out by deducting the liable parent’s care cost percentage from their income percentage, and then multiplying the result by the appropriate amount set out in the relevant child expenditure table (which identifies, amongst other things, the average annual expenditure on children in New Zealand, by reference to average weekly earnings). 15
- “(5) This section is by way of explanation only. If it is inconsistent with any other provision of this Act, the other provision prevails.” 20

Amendments to Part 1 (liability to pay)

8 Children who qualify for child support

- (1) Section 5 is amended by repealing paragraph (a) and substituting the following paragraph: 25
- “(a) is—
- “(i) ~~under the age of 18; or~~
- “(ii) ~~aged 18 and; in relation to any period on or after~~ **1 April 2014**; ~~is enrolled at a registered school (as defined in section 2(1) of the Education Act 1989); and~~ 30
- “(a) is under the age of 18, or is aged 18 and attending a school; and”.
- (2) Section 5 is amended by adding the following subsections as subsections (2), (3), and (4): 35
- “(2) In **subsection (1)(a)**, school means—

“(a) a registered school (as defined in section 2(1) of the Education Act 1989); or

“(b) an overseas school.

“(3) A child who is enrolled at a registered school and attends it until the end of the school’s academic year is deemed to be enrolled at and attending the school until 31 December in that year. 5

“(4) In relation to the child support year commencing on **1 April 2014, subsection (1)** must be read as if the whole of **paragraph (a)** were replaced by a reference to a child under 19 years of age.” 10

9 New headings and sections 7B to 19 substituted

Sections 8 to 24 and the headings above sections 8, 11, 14, 18, and 21 are repealed and the following sections and headings substituted: 15

“7B Number of Assumptions about parents of child

“(1) The Commissioner is entitled to assume, for the purposes of a formula assessment, that a qualifying child has 2 parents, and that those parents are living apart.

“(2) However, if the Commissioner believes on reasonable grounds that that assumption is incorrect, the Commissioner must apply the provisions of this Act, with any necessary modifications, to reflect the true position, as determined by the Commissioner. 20

“Application for formula assessment

“8 Who may apply for formula assessment 25

“(1) ~~A~~ Any parent or carer of a qualifying child may apply to the Commissioner for a formula assessment of child support payable by a liable parent in respect of the child, if the ~~earer~~ applicant is not living with a parent of the child in a marriage, civil union, or de facto relationship. 30

“(2) However, if a qualifying child is a child in respect of whom payments are being made under section 363 of the Children, Young Persons, and Their Families Act 1989, then, despite **subsection (1)**, the only person who may apply for a formula assessment in relation to the child is either of the following: 35

- “(a) the chief executive of the department for the time being responsible for the administration of the Children, Young Persons, and Their Families Act 1989; or
 “(b) a body or organisation approved under section 396 of that Act.

5

“9 Social security beneficiaries must apply for formula assessment

“(1) This section applies to a person who is a carer of a qualifying child (other than a child to whom **section 8(2)** applies) and—

- “(a) is a social security beneficiary; and
 “(b) is a carer referred to in **section 8(1)** who provides, or considers that he or she provides, at least 28% of ongoing daily care to a qualifying child (other than a child to whom **section 8(2)** applies); and

10

“(c) does not have an existing child support arrangement with or involving all the liable parents of the child.

15

“(b) provides, or considers that he or she provides, at least 35% of ongoing daily care to the child; and

“(c) is not a receiving carer in respect of the child.

“(2) A person to whom this section applies must apply for a formula assessment of child support in relation to every parent of the child.

20

“(3) An application for a formula assessment must be made at the same time as an application for the social security benefit is made, and at any other time when the Commissioner notifies the beneficiary that an application for a formula assessment is required in relation to a qualifying child.

25

“(3A) If a person who is or becomes a social security beneficiary receives child support pursuant to an order under Part 4 that relates to an overseas order (as referred to in section 67(b)),—

30

“(a) the person is deemed not to be a receiving carer for the purpose of this section; and

“(b) the person is deemed to have made, on the date on which he or she becomes a social security beneficiary, an election under section 70 that the order be one to which Part 4 does not apply; and

35

- “(c) if the person ceases to be a social security beneficiary, or ceases to provide at least 35% of ongoing daily care to the child,—
- “(i) any formula assessment applying at that time ceases to apply; and 5
- “(ii) the election under section 70 is deemed to be revoked (despite section 70(4)) on the following day.
- “(4) If the person is in receipt of an unsupported child’s benefit in respect of 1 or more children, but is not in receipt of any other social security benefit, **subsection (2)** applies only in relation to the child or children in respect of whom the unsupported child’s benefit is paid. 10
- “(5) Any beneficiary who fails to comply with their obligations under this section is liable under section 70A of the Social Security Act 1964 to have their rate of benefit reduced. 15
- “10 Form of application**
- “(1) An application for formula assessment must be in an approved form and be accompanied by the documents (if any) specified in the form. 20
- “(2) Every application must—
- “(a) identify at least 1 qualifying child to whom the application relates; and
- “(b) identify, in relation to each qualifying child, at least 1 person who provides at least ~~28%~~ 35% of ongoing daily care to the child; and 25
- “(c) identify at least 1 person as a liable, or potentially liable, parent of each qualifying child identified; and
- “(d) include the tax file number (as defined in section YA 1 of the Income Tax Act 2007) of each qualifying child 30 (except to the extent that the application form permits otherwise).
- “(3) The application, and every document accompanying it, must be verified as specified in the application form.
- “(4) An application for a formula assessment is properly completed if— 35

- “(a) it contains all the information required by the application form to be supplied; and
- “(b) it is accompanied by all the documents required by the application form to accompany the application; and
- “(c) the application and documents are verified as required by the application form. 5

“11 Multiple applications in single form

- “(1) If an application for a formula assessment is made on a single form in respect of 2 or more children, the form may be treated as if it contained separate applications for formula assessment of child support for each child. 10
- “(2) **Subsection (3)** applies if—
 - “(a) an application is made on a single form for child support in respect of 1 child or 2 or more children; and
 - “(b) payment of child support is sought from 2 or more ~~persons~~ parents for the child or any of the children. 15
- “(3) When this subsection applies, the form may be treated as if it contained separate applications for a formula assessment of child support in respect of the child or each of the children from a ~~person~~ parent from whom payment of child support is sought. 20

“12 Deemed application by beneficiary

- “(1) This section applies if a social security beneficiary is entitled to child support payments under a voluntary agreement but child support payments then cease to be payable under the agreement because— 25
 - “(a) the agreement expires; or
 - “(b) the amount payable by the liable parent is less than the amount that would be payable by the liable parent under a formula assessment; or 30
 - “(c) an election under section 64 (to terminate liability under the voluntary agreement) takes effect.
- “(2) If this section applies, on the day after the date on which the child support payments cease to be payable under the agreement, the Commissioner is deemed to have received from the beneficiary a properly completed application for a formula assessment for child support, as required by **section 9**, in rela- 35

tion to the same child or children, the same liable parent, and the same carer, as the voluntary agreement related to.

“13 Notification by Commissioner of application

- “(1) On receiving a properly completed application for a formula assessment in respect of 1 or more qualifying children, the Commissioner must notify the applicant, and every parent and carer identified in the application, that the Commissioner has received an application for a formula assessment and will therefore ascertain—
- “(a) who the liable parent or parents, and who the receiving carer or carers, of the qualifying child are; and
 - “(b) the annual amount of child support payable by any liable parent in respect of each qualifying child identified in the application; and
 - “(c) the annual rate of child support payable by any liable parent in respect of all the liable parent’s qualifying children; and
 - “(d) the amount payable in respect of each receiving carer; and
 - “(e) the date on which the liability of a liable parent to pay child support began or begins.
- “(2) If, in order to ascertain the matters listed in **subsection (1)**, the Commissioner needs further information from the applicant (such as the name of the other parent), the Commissioner may require the applicant to provide that information and need not take further action with respect to the application until the information is provided.
- “(3) If the Commissioner has already ascertained some or all of the matters listed in **subsection (1)**, the notice under this section may include that information.

“Determining care cost percentages

“14 Commissioner to establish proportions of care

- “(1) The Commissioner must establish, for each qualifying child to whom a properly completed application relates, the proportion of ongoing daily care that each parent and non-parent carer identified in the application, or in other information pro-

vided following a request under **section 13(2)**, provides to the child.

- “(2) If 2 or more people who live together each provide ongoing daily care to a child,—
- “(a) only 1 of those people may be treated as a carer, and the care provided by the other persons must be treated as part of the care provided by the first person; and
- “(b) if 1 of the people is a parent of the child, that person must be treated as the carer.
- 5
- “(15) **How Commissioner establishes proportions of care** 10
- “(1) For the purpose of **section 14**, the Commissioner ~~may~~ must (subject to **subsection (3)**) rely on the content of any care order or agreement relating to a qualifying child when establishing the proportion of ongoing daily care that a carer provides to the child. 15
- “(2) If a care order or agreement specifies the proportion of nights that a child is to spend with a carer, that proportion of nights is taken to be the proportion of ongoing daily care provided to the child by that carer.
- “(3) ~~However, a~~ A parent or carer of a qualifying child may challenge the application of **subsection (1) or (2)** by providing evidence of— 20
- “(a) why a care order or agreement should not be relied on; or
- “(b) why the proportion of nights that a child spends with a carer should not be taken to be the proportion of ongoing daily care provided to that child by that carer. 25
- “(4) If there is no care order or agreement relating to the child, or if the Commissioner is satisfied, on the basis of evidence provided, that a care order or agreement does not accurately reflect the proportion of ongoing daily care provided by a carer to a child, the Commissioner must establish the proportion of care provided by a carer primarily on the basis of the number of nights that the child spends with the carer. 30
- “(5) If the Commissioner is satisfied, on the basis of evidence provided, that the number of nights spent with a carer is not a true reflection of the proportion of care actually provided by 35

a carer to the child, the Commissioner must establish the proportion of care provided ~~having regard primarily to the periods the child is in the care of the carer, and then to the following factors:~~ on the basis of the amount of time that the carer is the person responsible for the daily care of the child. 5

~~“(a) how the responsibility for decisions about the daily activities of the child is shared; and~~

~~“(b) who is responsible for taking the child to and from school and supervising the child’s leisure activities; and~~

~~“(c) how decisions about the education of the child are made; and~~ 10

~~“(d) how decisions about the health care of the child are made; and~~

~~“(e) the financial arrangements for the child’s material support; and~~ 15

~~“(f) which parent or carer pays for which expenses of the child.~~

“(6) When establishing proportions of care, the Commissioner—

“(a) must use only whole percentage figures and, for that purpose, must round figures over 50% upwards to the next whole percentage figure, and figures under 50% downwards to the next whole percentage figure; and 20

“(b) must assume that every year has 365 days.

“16 Determining care cost percentages

“(1) The Commissioner must determine the care cost percentage of each parent and carer of a qualifying child on the basis of the proportion of care that the Commissioner has established, under **section 14**, that each carer provides to the child. 25

“(2) The care cost percentage that applies is the relevant percentage set out in, or determined in accordance with, column 2 of the table in **Schedule 1**. 30

“Liable parents and receiving carers

“17 Identification of liable parents and receiving carers

The Commissioner must identify the liable parents and receiving carers of each qualifying child as follows: 35

- “(a) a parent of a qualifying child whose income percentage (as determined under **section 31**) exceeds their care cost percentage (as determined under **section 16**) is a liable parent of the child; and
- “(b) a parent carer of a qualifying child whose income percentage is less than their care cost percentage is a receiving carer of the child; and
- “(a) a parent of a qualifying child is a liable parent in relation to the child if—
- “(i) the parent provides less than 28% of ongoing daily care to the child (which means the parent’s care cost percentage is nil); or
- “(ii) the parent’s income percentage (as determined under **section 31**) is greater than their care cost percentage (as determined under **section 16**) for the child;
- “(b) a parent of a qualifying child is a receiving carer of the child if the parent’s income percentage is less than the parent’s care cost percentage for the child, and that care cost percentage is at least 25% (which means the parent provides at least 35% of ongoing daily care to the child);
- “(c) a non-parent carer of a qualifying child who provides at least ~~28%~~ 35% of ongoing daily care to the child is a receiving carer of the child.
- “**18 Effect of being liable parent or receiving carer**
- “(1) A person who the Commissioner determines is a liable parent of a child is liable to make payments of child support in respect of that child, in accordance with an assessment under Part 2.
- “(2) A person who the Commissioner determines is a receiving carer of a child is a person in relation to whom child support payments in respect of the child are payable, in accordance with Part 9.
- “(3) If, under **section 17**, a person is identified as a liable parent in respect of a child but no other person is identified as a receiving carer,—
- “(a) the Commissioner may determine, despite anything in Part 2, that no child support is payable by that person for the child; but

- “(b) the person is entitled to be treated for the purposes of this Act as a liable parent of the child.
- “(4) If, under **section 17**, a person is identified as a receiving carer in respect of a child but no other person is identified as a liable parent,— 5
- “(a) the Commissioner may determine, despite anything in Part 2, that no child support is payable to the receiving carer in respect of the child; but
- “(b) the person is entitled to be treated for the purposes of this Act as a receiving carer of the child. 10
- “Beginning of liability to pay child support under formula assessment*
- “19 When liability to pay child support starts**
- “(1) The liability of a liable parent to pay child support under a formula assessment starts from ~~the day on which the properly completed application for that formula assessment is received by the Commissioner.—~~ 15
- “(a) the day on which the properly completed application for that formula assessment is received by the Commissioner; or 20
- “(b) if a reassessment results in a person being identified as a liable parent, from the date specified in the reassessment as the effective date.
- “(2) If a parent becomes liable to pay child support to a person in relation to a child under a formula assessment, any existing liability of that parent to pay child support to the person in relation to that child under any ~~other~~ voluntary agreement is suspended between the commencement of liability to pay under the formula assessment and the end of that liability. 25
- “(3) If the Commissioner receives an application for a formula assessment that names a person as a parent of a qualifying child (**person P**), but person P is not at that time a parent of the child within the meaning of section 7, then, if the application is otherwise properly completed, liability by person P to pay child support in respect of the child starts from the day on which the application was received if— 30 35

- “(a) a court later declares person P to be the parent of the child, or person P is later declared to be a parent of the child by an order made by a court or a public authority in an overseas jurisdiction; and
- “(b) the Commissioner determines under this Part that person P is a liable parent of the child.” 5

10 New section 25 substituted

Section 25 is repealed and the following section substituted:

“25 When liability to pay child support ceases

- “(1) A liable parent ceases to be liable to pay child support in respect of a qualifying child under a formula assessment on the day before the date on which the child— 10
 - “(a) ceases to be a qualifying child; or
 - “(b) is adopted; or
 - “(c) dies. 15
- “(2) A liable parent ceases to be liable to pay child support under a formula assessment on the day the parent ceases to be a liable parent under **section 17**, or on the day before the date on which the parent—
 - “(a) becomes a person who is none of the following: 20
 - “(i) a New Zealand citizen;
 - “(ii) a person who is ordinarily resident in New Zealand;
 - “(iii) a person who is ordinarily resident in a country with which New Zealand has entered into a reciprocal agreement for the enforcement of child support; or 25
 - “(b) becomes a person from whom child support may not be sought in respect of the child by reason of section 6(2); or 30
 - “(c) dies.
- “(3) A liable parent ceases to be liable to pay child support in respect of a particular receiving carer of a qualifying child under a formula assessment on the earliest of the following:
 - “(a) if the receiving carer dies, on the earlier of the following: 35
 - “(i) the 28th day after the date of death:

- “(ii) the day before the date on which a properly completed application for formula assessment is received by the Commissioner from a carer in place of the carer who has died:
- “(b) the day before the date on which the receiving carer ceases to provide at least ~~28%~~ 35% of ongoing daily care to the child: 5
- “(c) the day before the date on which the receiving carer starts to live, or resumes living, with the liable parent of the child in a marriage, civil union, or de facto relationship: 10
- “(d) in any case to which **section 8(2)** applies, the day before the date on which the carer ceases to be under a duty to make payments under section 363 of the Children, Young Persons, and Their Families Act 1989 in respect of the child: 15
- “(e) the day specified in a notice of election, given under section 27, to end the liability of the liable parent to the carer (except that this paragraph does not apply in respect of any carer who is in receipt of a social security benefit): 20
- “(f) in a case where a voluntary agreement made in relation to the child between the liable parent and the carer is accepted by the Commissioner, the day before the date on which that voluntary agreement first applies, in accordance with section 59.” 25

Amendments to Part 2 (assessment of amounts)

- 11 New headings and sections 28A to 36D substituted**
 Sections 29 to 36 and the heading above section 32 are repealed and the following sections and headings substituted: 30
- “28A Commissioner to assess child support payable under formula assessment**
- “(1) As soon as practicable after identifying a liable parent under Part 1, the Commissioner must—
- “(a) assess the annual amount of child support payable by the liable parent in that child support year in respect of each of his or her qualifying children; and 35

- “(b) assess the annual rate of child support payable by the liable parent in that child support year in respect of all of his or her qualifying children; and
- “(c) where the application for a formula assessment was made in the previous child support year, make such assessments in relation to the previous child support year. 5
- “(2) Before, or as soon as practicable after, the start of each later child support year in which child support continues to be payable by the liable parent, the Commissioner must make the assessments referred to in **subsection (1)(a) and (b)** in relation to that later child support year. 10
- “(3) Every assessment must be done in accordance with this Part and Part 5.

“29 Formula for assessing annual amount of child support

- “(1) The formula for assessing the annual amount of child support payable under a formula assessment by a liable parent in a child support year in respect of a qualifying child is the parent’s income percentage minus the parent’s care cost percentage, multiplied by the child expenditure amount for the child. This formula can be expressed as— 15 20

$$(i\% - c\%) \times \frac{e}{n}$$

$$(i\% - c\%) \times p$$

where—

- i% is the liable parent’s income percentage determined under **section 31**
- c% is the liable parent’s care cost percentage determined under **section 16** 25
- e is the amount, determined in accordance with the child expenditure table applying to that child support year, that applies to the parent in respect of the child on the basis of— 30
 - (a) the combined child support income amounts of all parents of the child; and
 - (b) the number of children in the child’s child support group; and

- (c) the age group of those children
- n is the number of children in the same child support group as the child.
- p is the child expenditure amount for a qualifying child.
- “(1A) The **child expenditure amount** for a qualifying child in a child support year is— 5

$$\frac{e}{n}$$

where—

- e is the amount, determined in accordance with the child expenditure table applying to that child support year, that applies to the parent in respect of the child on the basis of— 10
- (a) the combined child support income amounts of all parents of the child; and
- (b) the number of children in the child’s child support group; and 15
- (c) the age group of those children
- n is the number of children in the same child support group as the child.
- “(2) However, in the case of a liable parent to whom **section 36** applies (a parent with more than 1 child support group), the annual amount of child support for a child support year in respect of a qualifying child is the lesser of— 20
- “(a) the amount determined under **subsection (1)**; and
- “(b) the amount determined under the multi-group cap applying to that child. 25

- “(3) The **multi-group cap** for a child is the amount determined as follows:

$$(100\% - e\%) \times m$$

where—

- e% is the parent’s care cost percentage in relation to the child 30
- m is the multi-group cost of the child, as determined under **section 36(4)**.
- “(4) The purpose of the multi-group cap is to avoid liable parents paying more in child support than they would pay if all the 35

children for whom they are liable to pay child support were living together.

“29A Annual amount of child support payable by liable parent

“(1) The annual amount of child support payable under a formula assessment by a liable parent in a child support year in respect of a qualifying child is as follows: 5

“(a) the amount determined in accordance with the formula set out in **section 29(1)**, unless **paragraph (b) or (c)** applies:

“(b) for a liable parent to whom **section 36** applies, the lesser of— 10

“(i) the amount determined in accordance with the formula set out in **section 29(1)**; and

“(ii) the amount determined under the multi-group cap (referred to in **subsection (2)**) applying to the child; or 15

“(c) if **section 36A** applies, the lesser of—

“(i) the amount determined in accordance with the formula set out in **section 29(1)**; and

“(ii) the amount described in **section 36A(2)**. 20

“(2) The **multi-group cap** for a child is the amount determined as follows:

$$(100\% - c\%) \times m$$

where—

c% is the parent’s care cost percentage in relation to the child 25

m is the multi-group cost of the child, as determined under **section 36(4)**.

“(3) The purpose of the multi-group cap is to avoid liable parents paying more in child support than they would pay if all the children for whom they are liable to pay child support were living together. 30

“30 Minimum annual rate of child support

If, after assessing the annual amount of child support payable by a liable parent in respect of each of his or her qualifying children, the Commissioner determines that the total amount 35

payable by the parent is less than the minimum annual rate referred to in **section 72(1)(a)**, the Commissioner must, despite **section 29**,—

- “(a) assess the parent’s annual rate of child support as the minimum annual rate referred to in **section 72(1)(a)**; 5
and
- “(b) determine the proportion of that minimum annual rate of child support that is payable in respect of each receiving carer, on the basis of the number of qualifying children of the liable parent that each carer provides care for. 10

“Determining income percentages

“31 Income percentage

A parent’s **income percentage**, in relation to a qualifying child, is the percentage figure derived by dividing the person’s child support income amount (as determined under **section 32**) ~~divided~~ by the sum of the child support income amounts, in relation to that child, of all the parents of the child. 15

“32 Child support income amount

“(1) A parent’s **child support income amount** for a child support year in relation to a child is the person’s adjusted taxable income (determined under **section 33**) for the relevant tax year minus each of the following: 20

- “(a) the person’s living allowance (as determined under **section 34**) for the child support year: 25
- “(b) the sum of any dependent child allowances to which the person is entitled under **section 35** for the child support year:
- “(c) any multi-group allowance that relates to the child and to which the person is entitled under **section 36** for the child support year. 30

“(1A) If the result of the calculation in **subsection (1)** is zero or less, the parent’s child support income amount must be treated as being nil.

“(2) If the adjusted taxable income of a parent of a qualifying child cannot reasonably be ascertained, or cannot be applied by the 35

Commissioner, the ~~person's~~ parent's child support income amount is to be treated as being,—

- “(a) if there is 1 parent whose adjusted taxable income is known, the same as that parent’s child support income amount; and 5
- “(b) if there is more than 1 parent whose adjusted taxable income is known, the average of those parents’ child support income amounts.

“33 **Adjusted taxable income**

- “(1) A person’s **adjusted taxable income** for a child support year is 10
the person’s taxable income for the relevant tax year adjusted by the adjustments (if any) that would be made to the person’s taxable income to determine the person’s family scheme income under subpart MB of the Income Tax Act 2007, except that the following are not to be treated as being part of the person’s family scheme income for this purpose: 15
 - “(a) income that is exempt income under section CW 32 of the Income Tax Act 2007 (child support and spousal maintenance);
 - “(b) income referred to in section MB 11 of the Income Tax Act 2007 (income derived by dependent children): 20
 - “(c) income referred to in section MB 12 of the Income Tax Act 2007 (non-residents’ foreign-sourced income of the person’s spouse or partner).
- “(2) However, in relation to any period before the close of the day 25
before **1 April 2014 2015**, a person’s adjusted taxable income for a child support year is the person’s taxable income without the adjustments referred to in **subsection (1)**.
- “(3) A person’s taxable income must be taken to be their taxable 30
income for the most recent tax year if—
 - “(a) it was derived solely from withholding income; and
 - “(b) no adjustments of the sort referred to in **subsection (1)** are made.
- “(4) If **subsection (3)** does not apply, a person’s taxable income 35
for a child support year must be taken to be their taxable income in the tax year immediately preceding the most recent tax year, inflated by the inflation percentage for the child support year.

- “(5) If a person’s taxable income for a tax year has not been assessed, the Commissioner must determine the person’s taxable income—
- “(a) if an income statement has been issued, on that basis; and 5
- “(b) in any other case, on the basis of the income and any other particulars known to the Commissioner.
- “(6) **Subsections (3) to (5)** are subject to sections 38 to 39A.
- “**34 Living allowance**
- “(1) A person’s **living allowance** in a child support year is the amount of domestic purposes benefit payable to a beneficiary with 1 or more dependent children as specified in Schedule 16 or 17 of the Social Security Act 1964, where that amount is appropriate amount referred to in **subsection 2**— 10
- “(a) increased by the total amount of income tax deductions that would be required to make the rate a gross, rather than a net, rate (as determined in accordance with section RD 11(3) of the Income Tax Act 2007); and 15
- “(b) annualised.
- “(2) The amount referred to in **subsection (1)** is the amount set out in Schedule 16 of the Social Security Act 1964 unless **subsection (3)** applies, in which case the amount is the amount set out in Schedule 17 of that Act. 20
- “(3) The amount in Schedule 17 of the Social Security Act 1964 applies only to a person who has been granted a domestic purposes benefit under section 27G of that Act (domestic purposes benefit for care at home of sick or infirm). 25
- “(2) The amount of living allowance is as follows:
- “(a) for every person other than a person identified in **paragraph (b) or (c)**, the amount specified in Schedule 16 of the Social Security Act 1964 as the amount of domestic purposes benefit payable to a beneficiary with 1 or more dependent children; 30
- “(b) for a person who has been granted a domestic purposes benefit at the rate payable to a single beneficiary with 1 or more dependent children, under section 27G of the Social Security Act 1964 (domestic purposes benefit for 35

care at home of the sick or infirm), the amount specified in Schedule 17 of that Act for that benefit type:

“(c) for a person who has been granted an invalid’s benefit at the rate payable to a single beneficiary with 1 or more dependent children, under section 40 of the Social Security Act 1964, the amount specified in Schedule 6 of that Act for that benefit type. 5

“(4) The version of the appropriate schedule of the Social Security Act 1964 that applies in a child support year is the version in force on 1 January in the immediately preceding child support year. 10

“(5) The Commissioner must ensure that notice of the applicable living allowances under this section that apply to the current and (if applicable) the previous child support year is available at all reasonable times on an Internet site maintained by or on behalf of the Inland Revenue Department. 15

“**35 Dependent child allowance**

“(1) For the purpose of calculating a person’s parent’s child support income amount under **section 32** in a child support year, a person parent is entitled to a dependent child allowance in respect of each of his or her dependent children. 20

“(2) The amount of a person’s parent’s dependent child allowance, in relation to each dependent child, is—

$$c\% \times \frac{e}{n}$$

where—

c% is the care cost percentage of the parent in relation to the dependent child (being the percentage that would be determined under **section 16** if the child were a qualifying child) 25

e is the amount, determined in accordance with the child expenditure table applying to that child support year, that applies to the parent in respect of the dependent child on the basis of— 30

(a) the child support income amount of the parent alone, with that amount being treated as the ad-

- justed taxable income of the parent, minus the parent's living allowance; and
- (b) ~~the number of children in the dependent child's child support group; and~~
- (b) the total number of the parent's dependent children; and 5
- (c) the age group of those children
- n is the ~~number of children in the same child support group as the dependent child~~ total number of the parent's dependent children. 10
- “(3) In this section, **dependent child**, in relation to any person, means a child of whom the person is a parent (within the meaning in section 7) and who—
- “(a) ~~is maintained as a member of the parent's family; and~~
- “(b) ~~is—~~ 15
- “(i) under the age of 18; or
- “(ii) ~~aged 18 and; in relation to any period on or after~~ **1 April 2014**; ~~is enrolled at a registered school (as defined in section 2(1) of the Education Act 1989); and~~ 20
- “(c) ~~is not a child for whom any person is liable to pay child support; and~~
- “(d) ~~is not financially independent; and~~
- “(e) ~~is not living with another person in a marriage, civil union, or de facto relationship.~~ 25
- “(3) In this section, a parent's **dependent child** is any child of the parent who—
- “(a) is maintained as a member of the parent's family and for whom the parent provides at least 28% of the ongoing daily care; and 30
- “(b) is not a child for whom any person is liable to pay child support or is required, under the law of another country, to make payments that are of the same nature as child support; and
- “(c) meets the requirements of section 5(1)(a) to (c) (which describe which children qualify for child support). 35

“36 Multi-group allowance

- “(1) This section applies to a parent who has ~~more than 1 child and~~ more than 1 child support group.
- “(2) For the purpose of calculating a ~~person’s~~ parent’s child support income amount in relation to a particular child (**child C**) in a child support year, a ~~person~~ parent to whom this section applies is entitled to a multi-group allowance in relation to child C.
- “(3) The multi-group allowance in relation to child C is the sum of the multi-group costs of each child (**child D**) of the parent who is not in the same child support group as child C.
- “(4) The multi-group cost of child D is—

$$\frac{e}{n}$$

where—

- e is the amount, determined in accordance with the child expenditure table applying to the relevant child support year, that applies to the parent in respect of child D—
 - (a) on the basis of the child support income amount of that parent alone, with that amount being treated as the adjusted taxable income of the parent, minus the parent’s living allowance and the sum of any dependent child allowances to which the parent is entitled; and
 - (b) as if—
 - (i) child D were one of n children; and
 - (ii) all those children were the same age as child D
- n is the total number of children of the parent in all the parent’s child support groups.

“Amounts payable in respect of receiving carers

“36A Where parent is sole receiving carer

- “(1) ~~If, in respect of a qualifying child, This section applies where~~ a liable parent is liable to pay only 1 receiving carer, and that carer (**person P**) is a parent of the child; ~~the amount of child support payable in respect of person P is the amount that per-~~

son P would pay if the difference between person P's income percentage and care cost percentage (which, under the formula in **section 29**, is a negative percentage) were a positive percentage.

“(2) When this section applies, the amount of child support payable in respect of person P is the amount of annual child support that person P would pay if the difference between person P's income percentage and care cost percentage (which, under the formula in **section 29**, is a negative percentage) were a positive percentage. 5
10

“36B Where all no receiving carers are non-parents parents

“(1) This section applies if, in respect of a qualifying child, a liable parent is liable to pay child support in respect of 1 or 2 receiving carers, and neither of them is a parent of the child.

“(2) If the liable parent is liable to pay child support in respect of just 1 non-parent receiving carer, the amount of child support payable in respect of that carer is the annual amount of child support payable by the liable parent for the child. 15

“(3) If, in respect of a qualifying child, a the liable parent is liable to pay child support in respect of 1 or more 2 non-parent receiving carers, none of whom are parents of the child, the amount of child support payable in respect of each carer is— 20

$$f \times \frac{c\%}{g\%}$$

where—

f is the annual amount of child support payable by the liable parent for the child 25

c% is the care cost percentage of the receiving carer in relation to the child

g% is the combined care cost percentages of all both the receiving carers of the child, in relation to the child.

“36C Where 2 or more receiving carers, with at least 1 parent 1 receiving carer is parent and other is non-parent 30

“(1) This section applies if, in respect of a qualifying child, a liable parent is liable to pay child support in respect of 2 or more

receiving carers and at least 1 of them is a parent of the child.
receiving carers, where 1 of them is a parent of the child and
the other is a non-parent carer of the child.

“(2) ~~If this section applies, the~~ The amount of child support payable
to a ~~receiving carer~~ the receiving parent (person P) who is a 5
parent of the child is the amount of annual child support that
person P would pay if the difference between person P’s in-
come percentage and care cost percentage (which, under the
formula in **section 29**, is a negative percentage) were a posi-
tive percentage. 10

“(3) ~~If this section applies, the~~ The amount of child support payable
to ~~each~~ the non-parent receiving carer of the child is— is the
annual amount of child support payable by the liable parent for
the child, minus the amount payable under **subsection (2)** to
person P. 15

$$(f - p) \times \frac{e\%}{g\%}$$

where—

f is the annual amount of child support payable by the
liable parent for the child

p is the amount payable under **subsection (2)** (to person
P) 20

e% is the care cost percentage of the receiving carer in re-
lation to the child

g% is the combined care cost percentages of all the non-
parent receiving carers of the child, in relation to that
child. 25

“Expenditure on children

“36D Child expenditure tables

“(1) Before the start of a child support year, the Commissioner must
approve a child expenditure table for that child support year,
based on the expenditure on children table in **Schedule 2**, that 30
identifies, for the relevant child support year,—

“(a) the amount of the average weekly earnings that applies;
and

- “(b) the amount of child support income that is taken to be expended on children, with that amount corresponding to the percentages set out in the expenditure on children table within each income band in the table.
- “(2) The Commissioner must ensure that the child expenditure table for the current and (if applicable) the previous child support year is available ~~at all reasonable times on an Internet site maintained by or on behalf of the Inland Revenue Department.~~— 5
- “(a) on request to the Inland Revenue Department, in hard copy; and 10
- “(b) at all reasonable times, on an Internet site maintained by or on behalf of the Inland Revenue Department.
- “(3) Whenever an income amount is used in relation to the child expenditure table, the income amount must be truncated to whole dollars.” 15

11A New heading and sections 40 to 45 substituted

Sections 40 to 45 and the heading above section 40 are repealed and the following heading and sections are substituted:

“*Estimate of taxable income*” 20

“40AA Definitions in sections 40 to 45

In **sections 40 to 45**, unless the context otherwise requires,—

“**annualised estimated taxable income** means the amount that a person estimates will be their taxable income in an election period, annualised in accordance with the following formula: 25

$$\frac{a}{b} \times 365$$

where—

a is the person’s estimated taxable income for the election period 30

b is the number of days in the election period

“**election** means an election, made by a person under **section 40**, to have the person’s estimated taxable income, instead of their original taxable income, applied for the purpose of cal-

culating the person’s adjusted taxable income for an election period

“election period, in relation to a child support year to which an election relates, means,—

“(a) if notice of the election is given under **section 40** before the start of the child support year, the child support year; and 5

“(b) if notice of the election is given during the child support year, the period in the child support year that starts on the first day of the month in which the notice is given under **section 40** and ends on the last day of the child support year 10

“estimated taxable income means the amount specified in a notice of election given by a person under **section 40** as the amount of taxable income that the person estimates that he or she will earn in the election period 15

“original taxable income, in relation to a person and a child support year, means the taxable income plus any relevant inflation percentage that, but for an election by the person, would have been used to assess the person’s adjusted taxable income for that child support year 20

“year-to-date income means a person’s taxable income from the start of a child support year until the end of the month immediately preceding the month in which notice of an election is given under **section 40**. 25

“40 Estimated taxable income

“(1) Any person may, by notice to the Commissioner, elect that the taxable income to be used to assess their adjusted taxable income for an election period must be the estimated taxable income specified in the notice of election. 30

“(2) The Commissioner, subject to **subsection (4)**, must accept an election if the sum of the person’s year-to-date income (if any) and the person’s estimated taxable income is 85% or less than the person’s original taxable income.

“(3) A notice of election must,— 35
“(a) if notice of the election is given before the start of the child support year to which it relates, state the person’s

- estimated taxable income for the full child support year;
or
- “(b) if notice of the election is given during the child support year to which it relates, state—
- “(i) the person’s year-to-date income; and 5
- “(ii) the person’s estimated taxable income for the election period.
- “(4) The Commissioner may not accept an election if—
- “(a) an income order is in force in relation to the person, and to any months in the child support year in respect of which the election is to apply; or 10
- “(b) the person is subject to an order of the court under section 187; or
- “(c) the person has made an election within the previous 3 months, and the proposed new election would change the person’s annualised estimated taxable income by \$500 or less; or 15
- “(d) the person made an election in relation to an earlier child support year and was required to provide a return of income under the Income Tax Act 2007 or the Tax Administration Act 1994 in relation to that year, but, at the time the notice is given under this section, the person is in breach of the requirement to furnish a return of income in respect of that year; or 20
- “(e) the person’s annualised estimated taxable income is more than their original taxable income. 25
- “(5) A notice under this section may be given in writing or orally, and is to be treated by the Commissioner as having been given in the month in which it was sent or provided by the person making the election, even if it is received by the Commissioner in the following month. 30
- “(6) The Commissioner may decline to accept an election if the person making the election does not, on request by the Commissioner, provide the information and evidence that the Commissioner requires in order to support the making of the estimate. 35
- “41 Effect of election**
- “(1) If the Commissioner accepts an election made by a person, the Commissioner must—

- “(a) adjust any formula assessment applying to the person in the election period on the basis that the person’s total taxable income for the child support year is the person’s annualised estimated taxable income; and
- “(b) take whatever steps are necessary to ensure that the amount of child support payable per day during the election period reflects the adjusted assessment. 5
- “(2) The making of an election does not prevent the Commissioner making a determination under Part 5A, 6A, or 6B, or the court making an order under Part 7. 10
- “42 Revocation of election and subsequent elections**
- “(1) A person who has made an election in relation to a child support year may revoke the election, before or during the child support year, by giving notice to the Commissioner; and the revocation takes effect from the start of the election period to which any election applied. 15
- “(2) If an election is in effect but the person then makes a later election,—
- “(a) if the Commissioner accepts the later election,—
- “(i) the later election takes effect from the start of the month in which the notice of election is given, and **section 41** applies accordingly; and 20
- “(ii) the earlier election ceases to have effect on the last day of the previous month; and
- “(b) if the Commissioner does not accept the later election because the amount of year-to-date income plus the new estimated taxable income is not zero to 85% less than the person’s original taxable income, then the earlier estimate is deemed to be revoked; and 25
- “(c) if the Commissioner does not accept the election for any other reason, the earlier estimate remains in effect. 30
- “(3) A person may not revoke an election if an income amount order comes into force in relation to the person for any period covered by the election.
- “43 Effect of revocation of election** 35
- “(1) When an election is revoked, or deemed to be revoked, the Commissioner must—

- “(a) adjust any formula assessment applying to the person on the basis that the person’s taxable income is what it would have been had the revoked election not been made; and
- “(b) take whatever steps are necessary to ensure that the amount of child support payable per day, during the child support year after the revocation takes effect, reflects that adjusted assessment. 5
- “(2) The revocation of an election does not prevent the Commissioner making a determination under Part 5A, 6A, or 6B, or the court making an order under Part 7, or a person making a further election. 10
- “44 End-of-year reconciliation**
- “(1) For the purpose of determining whether a person has, or has been, underpaid or overpaid child support in an election period, after the end of the child support year to which an election relates, the Commissioner must complete an assessment for the person based on the income amount determined under **subsection (2)**. 15
- “(2) The income amount to be used for the assessment is the least of the following: 20
- “(a) the actual taxable income earned in the election period (which is the actual taxable income earned in the full year less the year-to-date income identified in a notice of election), annualised in accordance with the formula in **subsection (3)** (which gives the **annualised actual taxable income in the election period**): 25
- “(b) the original taxable income;
- “(c) nil, but only in the case where the actual taxable income earned by the person during the year is equal to or less than the year-to-date income given in the notice of election. 30
- “(3) The formula for annualising a person’s actual taxable income in an election period is—
- $$\frac{a}{b} \times 365$$
- where— 35

- a is the actual taxable income earned during the election period
- b is the number of days in the election period.
- “(4) After comparing the result of the assessment done under **subsection (2)** with the result of the assessment done under **section 41**, the Commissioner must take whatever steps are necessary to ensure that the correct amount of child support is assessed for the child support year. 5
- “(5) A reconciliation under this section is subject to any income amount order that applies during all or any part of an election period. 10
- “**44A Reconciliation of estimated income where no tax return filed**
- “(1) This section applies if the Commissioner cannot determine the person’s actual taxable income during a child support year because the person, having been required to provide a return of income in respect of the tax year that corresponds to the child support year, has failed to provide it within 28 days of the requirement to provide it. 15
- “(2) Where this section applies, the Commissioner must determine that the amount to be used for the purpose of the assessment under **section 44(2)** is the same as the person’s original taxable income, unless the Commissioner is satisfied that there is reasonable cause for the failure to provide the return of income. 20 25
- “(3) A determination under **subsection (2)** is final unless, within 28 days after the person receives notification from the Commissioner of the determination, the person—
 “(a) makes an objection under section 90; or
 “(b) provides a return of income in respect of the relevant tax year to the Commissioner. 30
- “(4) In **subsection (2)**, **reasonable cause** means a circumstance that, on application being made by the person under section 37(3) of the Tax Administration Act 1994, results in the Commissioner extending the time for providing the return. 35

- “(5) A reconciliation under this section is subject to any income amount order that applies during all or any part of an election period.
- “45 Penalty if actual income 20% or more than estimated income** 5
- “(1) A person is liable to a penalty under this section if—
- “(a) their actual taxable income during a child support year is 20% or more than the sum of—
- “(i) their year-to-date income (if any) as given in a notice of election; and 10
- “(ii) their estimated taxable income for the election period; or
- “(b) the income for a reconciliation has been determined in accordance with **section 44A(2)** and that income is at least 20% more than the sum of the amounts specified in **paragraph (a)(i) and (ii)**. 15
- “(2) The penalty is 10% of the difference between—
- “(a) the annual amount of child support that was assessed under **section 41** as payable in the election period; and
- “(b) the reconciled annual amount of child support payable in the election period, as determined under **section 44**. 20
- “(3) However, no penalty is payable by a receiving parent if the amount that the liable parent pays has been determined under the multi-group cap referred to in **section 29A(2)**.
- “(4) The Commissioner must write off a penalty to which a person is liable under this section, or any part of the penalty, if the Commissioner is satisfied that the person, in relation to an election period in a child support year, has become liable to pay a penalty under this section as the result of the taxable income derived by the person in the child support year being higher than it would otherwise have been by reason of— 25
- “(a) the enactment of any Act amending the Income Tax Act 2007, or the making of any regulation or Order in Council relating to income tax, during the period commencing on the first day of the last month in that child support year and ending with the due date for payments in respect of that month; or 30 35

“(b) the Commissioner making public, during that period, any ruling in relation to any provision of the Income Tax Act 2007, and that ruling is different from a ruling previously made public by the Commissioner in relation to that provision; or

5

“(c) the adoption by the person of an incorrect interpretation of any provision of this Act or of the Income Tax Act 2007, being an interpretation which, although incorrect, is reasonable having regard to the circumstances of the case.

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“(5) Subject to the other provisions of this Part, the other Parts of this Act apply with respect to any penalty payable under this section as if it were a penalty payable under **section 134**, except that late payment penalties do not apply to penalties imposed under this section.”

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12 Effect of election

Section 41 is amended by repealing subsection (1) and substituting the following subsections:

“(1) If a person (**person E**) makes an election under section 40 in relation to a child support year, the Commissioner must revise every formula assessment relating to person E in order to recalculate the annual child support income amounts in relation to each of his or her qualifying children; in relation to any day in the election period; in accordance with the following formula:

20

25

$$(f - j) \times \frac{365}{k}$$

where—

f is, in relation to a particular qualifying child, the greater of—

(a) the annual amount of child support payable by a liable parent, in relation to the child, taking into account person E’s estimate of his or her adjusted taxable income as specified in the election; and

30

(b) the portion of the minimum annual rate of child support (determined under **section 72(1)(a)**) payable by a liable parent in relation to the child

35

- j is the amount, if any, of child support payable by a liable parent under a formula assessment in relation to the child in respect of the days in the child support year preceding the commencement of the day in the election period on which the revised formula assessment begins to apply 5
- k is the number of days in the election period that fall on or after the day on which the revised formula assessment continues to apply:
- “(1A) If the result of the revised formula assessment is that the original liable parent of the child remains the liable parent but their annual amount of child support liability changes in relation to a child, the liable parent’s annual amount of child support for the child is the amount achieved by applying the formula in **subsection (1)**: 10 15
- “(1B) If the result of a revised formula assessment is that the identity of the liable parent, in relation to the child, changes, then the new liable parent’s annual amount of child support for the child is the amount calculated in accordance with the following formula: 20

$$f \times \frac{365}{k}$$

where f and k have the meanings given in **subsection (1)**:

Amendments to Part 5 (procedures)

- 13 Minimum rate of child support or domestic maintenance**
- (1) Section 72(1) is amended by repealing paragraph (a) and substituting the following paragraph: 25
- “(a) child support payable under a formula assessment by a liable parent in respect of all of his or her children is,—
- “(i) for the child support year commencing on **1 April 2011**, \$848:
- “(ii) for each later child support year, the minimum annual rate of child support under this paragraph for the immediately preceding child support year, adjusted by the applicable inflation percentage:”. 30

- (2) Section 72(1)(b) is amended by omitting “qualifying custodian” and substituting “receiving carer”.

14 New section 82 substituted

Section 82 is repealed and the following section substituted:

“82 Parents and receiving carers to advise Commissioner of changes 5

- “(1) For the purpose of enabling the Commissioner to make or amend a calculation of child support payable in respect of a child in any child support year under a formula assessment, every parent and every receiving carer of the child must advise the Commissioner of any change in the parent’s or carer’s living circumstances occurring during the child support year that affects, or may affect, any of the following: 10

“(a) in relation to parents and non-parent carers, the determination of the person’s care cost percentage: 15

“(b) in relation only to parents, the following:

“(i) the person’s appropriate living allowance:

“(ii) the application or calculation of any dependent child allowance (if any):

“(iii) the application or calculation of any person’s multi-group allowance (if any): 20

“(iv) the application or calculation of any person’s multi-group cap (if applicable).

- “(2) If the Commissioner is satisfied that a relevant change of living circumstances has occurred, the change is to be treated as having occurred— 25

“(a) on the date on which the change occurred, in any of the following cases:

“(i) in relation to a liable parent, where the change has the effect of increasing the amount of the parent’s child support liability: 30

“(ii) in relation to a receiving carer, where the change has the effect of decreasing the amount of child support payable in respect of that carer:

“(iii) where notice of the change is received by the Commissioner within 28 days after the date on which the change occurred; or 35

- “(b) on the date on which the Commissioner receives notice of the change, in either of the following cases (unless **paragraph (a)(iii)** applies):
- “(i) in relation to a liable parent, where the change has the effect of decreasing the amount of the parent’s child support liability: 5
- “(ii) in relation to a receiving carer, where the change has the effect of ~~decreasing~~ increasing the amount of child support payable in respect of that carer. 10
- “(3) Every notification of a change must be accompanied by such documentation as the Commissioner requires.
- “(4) The Commissioner may disregard **subsection (2)**, and may determine the date on which a particular change in living circumstances is to be treated as having occurred, in any case where 2 or more people give notice under this section relating to the same change, and the application of **subsection (2)** would result in the same change having to be treated as having occurred on different days in relation to different people.” 15
- 14A Commissioner to give effect to changed circumstances** 20
Section 86(1) is amended by repealing paragraphs (a) and (b) and substituting the following paragraphs:
- “(a) that the liability of a liable parent to pay child support to a carer in respect of the child has ceased in accordance with section 25 or 62; or 25
- “(b) that an event or change of circumstances has occurred that alters the respective liability or entitlement of any parent or carer of the qualifying child,—”.
- 15 New sections 88 to 89 substituted** 30
 Sections 88 and 89 are repealed and the following sections substituted:
- “**88 Notice of assessment of formula assessment of child support**
- “(1) The Commissioner must give written notice (a **notice of assessment**) to each parent and receiving carer of a qualifying child— 35

- “(a) as soon as practicable after making an assessment under **section 28A**; and
- “(b) after making any assessment that changes—
 - “(i) the amount of child support payable by a liable parent in respect of the child; or 5
 - “(ii) the respective amounts payable in respect of different receiving carers; and
- “(c) at the beginning of each later child support year.
- “(2) The notice of assessment must set out, as a minimum, the relevant matters identified in **section 88A**, but in no case may a notice of assessment reveal any more detail about another person who is a parent or carer than the person’s name (subject to **subsection (5)**) and, in relation to a qualifying child, the person’s proportion of care and care cost percentage. 10
- “(3) Except as required by **subsection (2)**, the notice of assessment must contain sufficient information to enable the recipient to exercise his or her rights to object under section 90 or 91. 15
- “(4) The notice must also include, or be accompanied by, statements that specifically draw to the attention of the recipient the recipient’s right to— 20
 - “(a) object under section 90 or 91 if he or she is aggrieved by any of the particulars of the assessment; and
 - “(b) apply to the Commissioner under Part 6A; and
 - “(c) apply to a Family Court under Part 7. 25
- “(5) The Commissioner may omit from a notice of assessment the name of any parent or carer if ~~he or she is satisfied that revealing the name to the recipient of the notice would be prejudicial to the safety of any parent, carer, or child.~~—
 - “(a) he or she is satisfied that revealing the name to the recipient of the notice would be prejudicial to the safety of any parent, carer, or child; or 30
 - “(b) the parent is deceased, or is a parent in respect of whom an assessment has not been made.
- “**88A Details in notices of assessments** 35
- “(1) A notice of assessment given to a liable parent must set out all of the following that are applicable in relation to each qualifying child to whom the notice relates:

- “(a) the child’s first names and date of birth:
- “(b) the names of the child’s other parents (subject to **section 88(5)**):
- “(c) the names of any non-parent receiving carers of the child (subject to **section 88(5)**): 5
- “(d) the proportion of ongoing daily care that the Commissioner has established (under **section 14**) that the liable parent provides to the child:
- “(e) the care cost percentage of the liable parent in relation to the child, as determined under **section 16**: 10
- “(f) the liable parent’s adjusted taxable income:
- “(g) the first names and date of birth of every dependent child (as defined in **section 35(3)**) of the liable parent and the amount of the dependent child allowance for each dependent child: 15
- “(h) the amount of any multi-group allowance to which the liable parent is entitled:
- “(i) the liable parent’s child support income amount in relation to the child:
- “(j) the combined child support income amounts of the liable parent and all the child’s other parents, in relation to the child: 20
- “(k) the liable parent’s income percentage in relation to the child.
- “(2) A notice of assessment given to a parent of a child who is a receiving carer must set out all of the following that are applicable in relation to each qualifying child to whom the notice relates: 25
- “(a) the child’s first names and date of birth:
- “(b) the names of the child’s liable parent or parents, and of any other parents (subject to **section 88(5)**): 30
- “(c) the names of any non-parent receiving carers of the child (subject to **section 88(5)**):
- “(d) the proportion of ongoing daily care that the Commissioner has established (under **section 14**) that the parent provides to the child: 35
- “(e) the care cost percentage of the parent in relation to the child, as determined under **section 16**:
- “(f) the parent’s adjusted taxable income:

- “(g) the first names and date of birth of every dependent child (as defined in **section 35(3)**) of the parent and the amount of the dependent child allowance for each dependent child:
 - “(h) the amount of any multi-group allowance to which the parent is entitled: 5
 - “(i) the parent’s child support income amount in relation to the child:
 - “(j) the combined child support income amounts of the parent and all the child’s other parents in relation to the child: 10
 - “(k) the parent’s income percentage in relation to the child.
 - “(3) A notice of assessment given under this section to a non-parent receiving carer of a child must set out all of the following that are applicable in relation to each qualifying child to whom the notice relates: 15
 - “(a) the child’s first names and date of birth:
 - “(b) the names of the child’s liable parent or parents, and any other parents (subject to **section 88(5)**):
 - “(c) the names of any other non-parent receiving carers of the child (subject to **section 88(5)**): 20
 - “(d) the proportion of ongoing daily care that the Commissioner has established (under **section 14**) that the carer provides to the child:
 - “(e) the care cost percentage of the carer in relation to the child, as determined under **section 16**: 25
 - “(f) the expenditure on each child for whom the carer provides care, as determined by the relevant child expenditure notice table:
 - “(g) the amount of child support payable by each of the child’s liable parents in respect of the carer. 30
- “**89 Notification by Commissioner to other payers and payees**
- “(1) The Commissioner must give written notice under this section to every person who is required under this Act to make payments, and every person entitled under this Act to receive payments, of— 35
 - “(a) domestic maintenance; or
 - “(b) child support under a voluntary agreement; or

- “(c) child support under a court order ~~made on or after 1 July 1992.~~
- “(2) The notice must set out—
- “(a) the amount of domestic maintenance or child support payable; and 5
 - “(b) the name of the payer and the payee; and
 - “(c) in the case only of a notice relating to child support, the name of each child in respect of whom payment is to be made.
- “(3) The notice must be given— 10
- “(a) as soon as practicable after determining the amount payable in respect of a child support year; and
 - “(b) after making any assessment that changes the amount payable.
- “(4) The notice must contain sufficient information to enable the recipient to exercise his or her rights to object under section 90 or 91. 15
- “(5) The notice must also include, or be accompanied by, statements that specifically draw to the attention of the recipient his or her right to— 20
- “(a) object under section 90 or 91 if he or she is aggrieved by any of the particulars of the assessment; and
 - “(b) apply to a Family Court under Part 7.”

Amendment to Part 5A (exemptions)

- 15A Exemption for long-term hospital patients** 25
- Section 89C is amended by inserting the following subsection after subsection (1):
- “(1A) For the purposes of subsection (1)(a), a liable person’s income during a period of long-term hospitalisation does not include any amounts received by the person during that hospitalisation for, or in respect of, any time up to and including the day on which the period of hospitalisation began.” 30
- 15B Exemption for long-term prisoners**
- Section 89D is amended by inserting the following subsection after subsection (1): 35

“(1A) For the purposes of subsection (1)(a), a liable person’s income during a period of long-term imprisonment does not include any amounts received by the person during that imprisonment for, or in respect of, any time up to and including the day on which the period of imprisonment began.” 5

Amendments to Part 6 (objections)

16 Objections to appealable decisions

(1) Section 90(1) is amended by repealing paragraphs (a) and (b) and substituting the following paragraphs:

“(a) a decision to make, or refuse to make, a formula assessment of child support: 10

“(b) a decision under **section 14** establishing the proportion of ongoing daily care that a carer provides to a qualifying child:

“(ba) a decision as to whether a particular child is or is not a dependent child of a person.” 15

(2) Section 90(1) is amended by repealing paragraph (d) and substituting the following paragraph:

“(d) a decision that a penalty has been imposed by operation of **section 45** or **134**.” 20

(3) Section 90(1) is amended by inserting the following paragraph after paragraph (h):

“(ha) a decision made under **section 82(4)** determining the date on which a change in living circumstances occurred.” 25

17 Objections to assessments

(1) Section 91(1) is amended by repealing paragraph (a) and substituting the following paragraph:

“(a) that, in relation to an assessment of financial support, the amount payable under the assessment in any child support year is incorrect; or” 30

(2) Section 91 is amended by repealing subsection (2) and substituting the following subsection:

“(2) An objection under this section may be made by any person who is affected by the assessment.” 35

18 Requirements in relation to objections

Section 92 is amended by inserting the following subsection after subsection (3):

- “(3A) An objection against a decision referred to in **section 90(1)(b)** (about the proportion of care that a carer provides to a child) must be based only on the information that was before the Commissioner at the time the decision establishing the proportion of care was made.”

Amendment to Part 6B (Commissioner-initiated administrative reviews)

19 Commissioner may make determination under this Part

Section 96Q is amended by repealing subsection (2) and substituting the following subsection:

- “(2) The parties to the proceedings under this Part are—
- “(a) the parent (who may, but need not, be a liable parent who is the subject of a review under this Part (the **subject parent**); and
- “(b) any receiving carer, whether a parent or non-parent, of the child who elects, under section 96Y, to become a party; and
- “(c) a liable parent who is not the subject parent, but who elects, under section 96Y, to become a party.”

Amendments to Part 7 (appeals and departure orders)

20 Sections 100 and 101 repealed

Sections 100 and 101 are repealed.

20A Matters as to which court must be satisfied before making order

- (1) Section 105(2)(b) is amended by repealing subparagraph (i) and substituting the following subparagraph:
- “(i) of high costs incurred by a parent or a receiving carer in enabling a parent or receiving carer to have contact with the child; or”
- (2) Section 105 is amended by repealing subsection (3) and substituting the following subsection:

“(3) For the purposes of **subsection (2)(b)(i)**, costs incurred in enabling a parent or receiving carer to have contact with the child are not to be taken to be high unless the total of those costs during a child support year is more than 5% of the adjusted taxable income for the year of the person incurring the costs.” 5

21 Orders that may be made

Section 106(1) is amended by repealing paragraphs (a) and (b) and substituting the following paragraph:

“(a) an order varying any component, or the application of any component, of an assessment of child support under a formula assessment; or” 10

Section 106 is amended by repealing subsection (1) and substituting the following section:

“(1) In determining an application made under section 104, a court may make any of the following orders: 15

“(a) an order departing from some of the provisions of this Act by substituting a different amount for any of the following amounts applied or determined under a formula assessment: 20

“(i) a person’s adjusted taxable income:

“(ii) a person’s living allowance:

“(iii) a person’s dependent child allowance:

“(iv) a person’s child support income amount:

“(v) the child expenditure amount applying in respect of a qualifying child; or 25

“(b) an order departing from some or all of the provisions of this Act relating to the formula assessment of child support in relation to the child and, as a result,—

“(i) substituting a different annual amount of child support payable by a liable parent for a specified period in place of the amount determined under a formula assessment; or 30

“(ii) prescribing an amount or a percentage by which the annual amount of child support payable by a liable parent for a specified period must vary from the amount determined under a formula assessment; or 35

“(c) an order that the provisions of this Act relating to a formula assessment of child support must not be departed from in relation to a particular child.”

Amendment to Part 8 (collection of financial support)

5

21A Amounts payable per month and per day

(1) Section 136(1) is amended by omitting “5 cents” and substituting “10 cents”.

(2) Section 136(2) is amended by omitting “5 cents” and substituting “10 cents”.

10

Amendment to Part 9 (payment)

22 New section 152B inserted

The following section is inserted after section 152A:

“152B Offsetting child support payments

“(1) If 2 parents of a child are each liable to pay the other an amount payable under a formula assessment for child support, the Commissioner may offset one liability against the other.

15

“(2) However, the Commissioner may not exercise this power in respect of any parent who is, at the time, a social security beneficiary.”

20

Amendment to Part 11 (enforcement provisions)

22A New section 179A inserted

The following section is inserted after section 179:

“179A Waiver of right to payment

“(1) A payee who is a non-parent receiving carer (other than a social security beneficiary) may, by notice to the Commissioner, waive their right to receive some or all child support payments from a liable parent.

25

“(2) The notice takes effect as a waiver on the date specified in the notice; but if no date is specified, it takes effect on the date on which the notice is received by the Commissioner.

30

“(3) On and from the date on which a waiver takes effect, any amount of money that is or becomes unpaid and in arrear, to the extent that the payee has waived their right to receive pay-

ment, ceases to be a debt payable by the liable parent to the Crown under this Act.

“(4) A waiver under this section is revocable at any time, by notice to the Commissioner, and the revocation takes effect on the later of the following: 5

“(a) the date specified in the notice:

“(b) the date on which the notice is received by the Commissioner.

“(5) A waiver under this section is deemed to be revoked if, and on the date that, the person to whom it relates becomes a social security beneficiary.” 10

Amendments to Part 14 (general provisions)

22B Rounding of amounts

Section 237(3) is amended by adding the following paragraphs: 15

“(d) any income amount; or

“(e) the annual rate of child support.”

22C New section 237A inserted

The following section is inserted after section 237:

“237A Rounding of other numbers 20

For the purpose of any calculation under this Act, every number (not being a dollar amount) must be rounded to no more than 2 decimal places.”

Amendment to Part 16 (transitional and savings provisions) 25

22D New section 276 added

The following section is added after section 275:

“276 Application, savings, and transitional provisions relating to amendments to Act

The application, savings, and transitional provisions set out in **Schedule 1AA**, which relate to amendments to this Act that come into force on and after **1 April 2014**, have effect for the purposes of this Act.” 30

*New schedules 1 and 2 inserted***22E** New Schedule 1AA inserted

The principal Act is amended by inserting after **section 276** the **Schedule 1AA** set out in **Schedule 1A** of this Act.

23 **New Schedules 1 and 2 inserted**

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The principal Act is amended by inserting after ~~section 275~~ **Schedule 1A** the **Schedules 1 and 2** set out in **Schedule 1** of this Act.

*Consequential amendments***24** **Consequential amendments to principal Act**

10

The principal Act is consequentially amended in the manner set out in **Schedule 2**.

25 **Consequential amendment to Adoption Act 1955**

Section 16(6) of the Adoption Act 1955 is amended by omitting “section 25(1)(b)(iii)” and substituting “**section 25(2)(b)**”.

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25A **Consequential amendment to Births, Deaths, Marriages, and Relationships Registration Act 1995**

(1) This section amends the Births, Deaths, Marriages, and Relationships Registration Act 1995.

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(2) In Schedule 1A, item relating to the Inland Revenue Department, in the row relating to birth information, marriage information, civil union information, and name change information, the column relating to purpose, after paragraph (b), insert:

25

(c) for child support purposes, details of the parentage, birth, and death of qualifying children or dependent children

Part 2
**Departures from formula assessment,
collection, penalties, and relief**

- Amendments to Part 7 (grounds for departure
from formula assessment)* 5
- 26 Matters as to which court must be satisfied before making order**
- (1) Section 105(2)(b) is amended by repealing subparagraph (i) and substituting the following subparagraph:
- “(i) of high costs incurred by a parent or a receiving carer in enabling a parent to have access (of any kind and for any purpose) to the child; or” 10
- (2) Section 105(2) is amended by adding “; or” and also by adding the following paragraph:
- “(d) that, at any time within 3 years starting on the date on which the child’s parents ceased to live together in a marriage, civil union, or de facto relationship, the application in relation to the child of the provisions of this Act relating to formula assessment of child support would result in an unjust and inequitable determination of the level of financial support to be provided by the liable parent for the child because a re-establishment costs situation exists under **subsection (7)**.” 15
20
- (3) Section 105 is amended by repealing subsection (3) and substituting the following subsection: 25
- “(3) For the purposes of **subsection (2)(b)(i)**, costs incurred in enabling a parent to have access (of any kind and for any purpose) to the child are not to be taken to be high unless the total of those costs during a child support year is more than 5% of the adjusted taxable income for the year of the person incurring the costs.” 30
- (4) Section 105 is amended by adding the following subsections:
- “(7) A re-establishment costs situation exists under this subsection for the purposes of **subsection (2)(d)** if, and only if,—
- “(a) the adjusted taxable income of a parent of the child for the child support year concerned includes a proportion that is— 35

- “(i) no more than 30% of that income; and
 “(ii) income from work done by that parent and that, in quantity or nature or both, is additional to work that he or she did before the child’s parents ceased to live together in a marriage, civil union, or de facto relationship; and 5
 “(b) some or all of that proportion of that income is used, or needs to be used, by a parent of the child in that child support year to meet, wholly or partly, actual and reasonable costs incurred to re-establish himself or herself, and any child or other person that he or she has a duty to maintain, after the child’s parents ceased to live together in a marriage, civil union, or de facto relationship. 10
 “(8) In computing, for the purposes of **subsection (2)(d)**, the 3-year period after the child’s parents ceased to live together in a marriage, civil union, or de facto relationship, the court may exclude a period or periods of resumed cohabitation with, or each with, the sole or main motive of reconciliation if that period does not exceed, or those periods in aggregate do not exceed, 3 months.” 15 20

Amendments to Part 8 (automatic deduction)

27 New heading and sections 129 to 131A substituted

Sections 129 to 131 and the heading above section 129 are repealed and the following sections and heading substituted:

“Financial support to be collected only by automatic deduction or other method acceptable to Commissioner 25

“129 Financial support generally to be paid only by automatic deduction

- “(1) All financial support that an automatic deduction person is required by this Act to pay on or after **1 April 2014 2015** must be paid only by way of automatic deduction under Part 10 except insofar as the Commissioner considers that method inappropriate. 30

“(1A) The Commissioner considers automatic deduction under Part 10 to be an inappropriate method of payment for some or 35

all of the financial support specified in **subsection (1)** only if, and to the extent that, all or any of the following apply:

“(a) the Commissioner considers automatic deduction under Part 10 of that financial support (or of that part of it) to be administratively inappropriate: 5

“(b) the Commissioner grants recognition under **section 131(1)** of qualifying payments for the child’s direct benefit made by the automatic deduction person:

“(c) the automatic deduction person is, in the Commissioner’s discretion, permitted for cultural reasons, privacy reasons, or other exceptional reasons to pay that financial support (or that part of it) by a payment method or methods (other than automatic deduction under Part 10) acceptable to the Commissioner. 10

“(1B) The Commissioner’s discretion under **subsection (1A)(c)** is exercisable on an application for the purpose or on the Commissioner’s own motion. 15

“(2) **Automatic deduction person**, in this section and **section 130**, means (subject to **subsections (3) to (5)**) a person who is 1 or more of the following: 20

“(a) a person who is a PAYE or ACC income recipient, but only if or to the extent that he or she is not a person who is in receipt of a benefit specified in **paragraph (c)** or a grant specified in **paragraph (d)**:

“(b) a person who, on or after **1 April 2014 2015**, defaults in a payment of financial support under this Act: 25

“(c) a person who is in receipt of a benefit under the Social Security Act 1964, the Social Welfare (Transitional Provisions) Act 1990, Part 6 of the War Pensions Act 1954, or the New Zealand Superannuation and Retirement Income Act 2001: 30

“(d) a person who is in receipt of a basic grant or an independent circumstances grant under the Student Allowances Regulations 1998.

“(3) **PAYE or ACC income recipient**, in **subsection (2)(a)**, means a person whose income is or includes either or both of the following: 35

“(a) income specified in paragraph (a) of the definition of withholding income in section 2(1):

- “(b) earnings related compensation (as defined in section 82(9) of the Tax Administration Act 1994).
- “(4) A person mentioned in **subsection (2)(a) to (d)** is an automatic deduction person regardless of whether the person’s liability to pay that financial support arises before, on, or after **1 April 2014 2015**. 5
- “(5) A person mentioned in **subsection (2)(a), (c), and (d)** is an automatic deduction person regardless of whether the person defaults or has defaulted in a payment or payments of that financial support. 10
- “(6) Automatic deduction required by **subsection (1)** in respect of a person specified in **subsection (2)(c)** must be from an instalment of a benefit to which the person is or may become entitled under the Act or Part specified in **subsection (2)(c)**.
- “**130 Payments to be made by other methods if automatic deduction not required or inappropriate** 15
- “ All financial support that a person is required by this Act to pay on or after **1 April 2014 2015** must be paid by a payment method or methods (other than automatic deduction under Part 10) acceptable to the Commissioner to the extent that either or both of the following apply: 20
- “(a) the person is not an automatic deduction person (as defined in **section 129(2) to (5)**):
- “(b) the Commissioner under **section 129(1)** considers payment of financial support referred to in **section 129(1)** by way of automatic deduction under Part 10 to be inappropriate. 25
- “(2) ~~The other payment method or methods may be, for some of the child support for a child in respect of a child support year, payment by way of recognition under **section 131** of 1 or more qualifying payments for the child’s direct benefit made in that year.~~ 30
- “(3) ~~A **qualifying payment for the child’s direct benefit**, in **subsection (2)** and **section 131**, means a payment that is made—~~ 35
- “(a) ~~by or on behalf of the liable parent and to a person other than the Commissioner; and~~

“(b) for goods or services that benefit directly the child (regardless of whether they also benefit, directly or indirectly, any other person):

“**131 Payment of child support by recognition of qualifying payments for child’s direct benefit** 5

“(1AA) The other payment method or methods referred to in **section 130** may be, for some of the child support for a child in respect of a child support year, payment by way of recognition under this section of 1 or more qualifying payments for the child’s direct benefit. 10

“(1AB) A **qualifying payment for the child’s direct benefit**, in this section and **section 131A**, means a payment that is made—

“(a) by or on behalf of the liable parent, and to a person other than the Commissioner; and

“(b) for goods or services that benefit directly the child (regardless of whether they also benefit, directly or indirectly, any other person). 15

“(1) The Commissioner may, to enable the liable parent to pay some of the child support for a child that this Act requires the liable parent to pay in a child support year, recognise under this section on a written application for the purpose 1 or more payments if, and only if, —, there is compliance with the conditions in **section 131A**. 20

“(a) the liable parent who is to make or has made the payment is not providing in that year a proportion of ongoing daily care for the child; established under **section 14**, that exceeds 28%; and 25

“(b) no receiving carer of the child is in that year a sole parent (as defined in section 3(1) of the Social Security Act 1964) who is in receipt of a social security benefit (as defined in section 2(1) of this Act); and 30

“(c) the child’s parents have, before the start of that year, entered into, and given the Commissioner, a written agreement that complies with **subsection (2)**; and

“(d) no parent of the child had when entering into the written agreement child support debt (which, under **section 134A(b)**, may be debt that is or includes related penal- 35

- ties) that remained unpaid after the time it became due and payable; and
- “(e) the Commissioner is satisfied, on the basis of information available to the Commissioner, that—
- “(i) each payment to be recognised is a qualifying payment for the child’s direct benefit made in that year; and
- “(ii) recognition of the payment or payments is consistent with no less than 10%, and no more than 30%, of the child support for the child that this Act requires the liable parent to pay in that year being paid by way of recognition of payments under this section.
- “(2) A written agreement referred to in **subsection (1)(c)** complies with this subsection if it is to the effect that the child’s parents intend no less than 10%, and no more than 30%, of the child support for the child that this Act requires the liable parent to pay in the child support year to be paid by way of recognition of payments under this section.
- “(2) The Commissioner may, in the Commissioner’s discretion,—
- “(a) recognise under **subsection (1)**, for child support for a child in respect of a child support year, a payment made in an earlier child support year (despite **section 131A**); and
- “(b) amend or revoke, if the Commissioner considers that changes to circumstances make it necessary or desirable to do so, any recognition under **paragraph (a)** of the payment.
- “(3) If asked to recognise a payment (~~provisionally or finally~~) under this section, or to revoke ~~provisional~~ recognition of a payment under ~~**section 131A**~~ under **subsection (1)**, the Commissioner may require a parent or carer of the child to produce any evidence that the Commissioner, in his or her discretion, considers appropriate to enable the Commissioner to decide whether to do so.
- “(3A) Recognition under **subsection (1)** granted during a month takes effect at the start of the next month.
- “(3B) Recognition under **subsection (1)** ceases at the end of the day before the day on which any of the following occurs:

- “(a) the liable parent who has made the payment provides in the child support year ongoing daily care for the child, established under **section 14**, that is or exceeds 28%:
- “(b) the liable parent who has made the payment ceases to be liable to pay child support for the child: 5
- “(c) a receiving carer in respect of the child starts to receive a social security benefit (as defined in section 2(1) of this Act).
- “(3C) The Commissioner may revoke recognition under **subsection (1)** if, after the recognition takes effect, the liable parent fails to pay an amount of child support by the time that the amount is due and payable. 10
- “(3D) If recognition of a qualifying payment is revoked under **subsection (2)(b) or (3C)**,—
- “(a) the Commissioner must as soon as practicable give the liable parent written notice of the revocation; and 15
- “(b) the liable parent must pay within 30 days of the date of that written notice of the revocation, and using another permitted payment method, every amount of child support that was to be, but on the revocation had not been, paid by recognition of the qualifying payment. 20
- “(3E) Recognition under **subsection (1)** and that involves a particular liable parent may be applied for and granted under this section even though earlier recognition of that kind was applied for and granted but ceased or was revoked under this section. 25
- “(4) For the purposes of section 96 (which identifies matters with respect to which Part 6 does not confer any right of objection), all decisions under this section and **section 131A** are matters left by those sections to the discretion of the Commissioner. 30
- “131A Provisional recognition under section 131**
- “(1) The Commissioner may under this subsection before or during the child support year referred to in **section 131** recognise provisionally (despite **section 131(1)(e)(i)**) an anticipated payment that, if made as anticipated, would comply fully with **section 131(1)**: 35

- “(2) However, provisional recognition under **subsection (1)** of an anticipated payment—
- “(a) becomes recognition under **section 131(1)** of that payment once made only if and after **section 131(1)** is complied with fully for the payment; and 5
- “(b) may be revoked by the Commissioner if the Commissioner is satisfied, on the basis of information available to the Commissioner, that the anticipated payment has not been made as anticipated.
- “(3) On revoking provisional recognition under **subsection (1)** of an anticipated payment, the Commissioner must as soon as practicable decide, and advise the liable person and the receiving carer, how the child support that was to be paid by way of recognition of the payment is instead to be paid under **section 130** by some other method or methods. 15

“131A Conditions for recognition of payments under section 131

- “(1) The conditions for recognition referred to in **section 131(1)** are as follows:
- “(a) the liable parent who has made the payment is not, at the time that the application for recognition is made, providing ongoing daily care for the child, established under **section 14**, that is or exceeds 28%; and 20
- “(b) the liable parent and a receiving carer have at any time during the child support year entered into, and given the Commissioner, an agreement that complies with **subsection (2)**; and 25
- “(c) no receiving carer who is a party to the agreement is, at the time that the application for recognition is made, a social security beneficiary; and 30
- “(d) no party to the agreement has, at the time that the application for recognition is made, child support debt (which, under **section 134A(b)**, may be debt that is or includes related penalties) that remains unpaid after the time it became due and payable; and 35
- “(e) the Commissioner is satisfied, on the basis of information available to the Commissioner, that—

- “(i) each payment to be recognised is a qualifying payment for the child’s direct benefit made at a time that is within 12 months before the time that the Commissioner receives the application for recognition; and 5
 - “(ii) the amount of the payment or payments to be recognised is at least 10% of the child support liability for the child for the child support year at the time that the application for recognition is made. 10
- “(2) An agreement referred to in **subsection (1)(b)** complies with this subsection if it—
 - “(a) is written on, or is in writing and contains all the material information required by, a form approved for the purpose by the Commissioner; and 15
 - “(b) identifies the payments that the parties to the agreement want to be recognised; and
 - “(c) identifies the child to whom those payments relate; and
 - “(d) identifies how the recognised payments will be used to satisfy monthly child support liabilities; and 20
 - “(e) is signed by the parties to it.
- “(3) Recognition under **section 131(1)** of a qualifying payment is not affected, and must not be revoked under **section 131(2)(b) or (3C)**, if a reassessment after recognition of the qualifying payment results in either or both of the following: 25
 - “(a) a debt that did not exist at the time of the recognition of the qualifying payment;
 - “(b) the amount of the qualifying payment being less than 10% of the child support for the child for the child support year.” 30

Amendments to Part 8 (penalties)

28 New sections 134 to ~~134C~~ 134B substituted

Section 134 is repealed and the following sections are substituted:

“134 Penalties for late payment of financial support debts

“Late payment penalties (initial and incremental)

“(1) A person liable to pay a financial support debt (whether that debt is incurred before, on, or after **1 April 2014 2015**) is liable to pay to the Commissioner a penalty of the amount stated in **subsection (2), (3), (4), (5), or (6)** if— 5

“(a) the time stated in that subsection (which is a time after the time at which all of the debt became due and payable) occurs on or after **1 April 2014 2015**; and

“(b) at the time stated in that subsection, some or all of the debt remains unpaid. 10

“Initial late payment penalty: due date

“(2) At the expiry of the due date, the penalty is the greater of the following amounts:

“(a) the amount of \$5; and 15

“(b) an amount equal to 2% of the amount of financial support remaining unpaid at the expiry of the due date.

“Initial late payment penalty: seventh day after due date

“(3) At the expiry of the seventh day after the due date, the penalty is an amount equal to 8% of so much (if any) of the amount of financial support (excluding the penalty imposed under **subsection (2)**) remaining unpaid at that expiry. 20

“Incremental late payment penalty: first month after due date

“(4) At the expiry of the period of 1 month that starts on the day after the due date, the penalty is an amount equal to 2% of so much (if any) of the sum of the following as remains unpaid at that expiry: 25

“(a) the amount of financial support remaining unpaid at the expiry of the due date:

“(b) all penalties, if any, imposed under either of **subsections (2) and (3)**. 30

“Incremental late payment penalty: first 11 later months

“(5) At the expiry of each of the first 11 periods of 1 month (if any) that, consecutively, follow the 1-month period referred to in **subsection (4)**, the penalty is an amount equal to 2% of so much (if any) of the sum of the following as remains unpaid at that expiry: 35

“(a) the amount of financial support remaining unpaid at the expiry of the due date:

“(b) all penalties, if any, imposed under any of **subsections (2) to (4)**:

“(c) all penalties, if any, earlier imposed under this subsection. 5

“Incremental late payment penalty: months after 1 year

“(6) At the expiry of each of the periods of 1 month (if any) that, consecutively, follow the last of the 11 periods of 1 month referred to in **subsection (5)**, the penalty is an amount equal to 10
1% of so much (if any) of the sum of the following as remains unpaid at that expiry:

“(a) the amount of financial support remaining unpaid at the expiry of the due date:

“(b) all penalties, if any, imposed under any of **subsections (2) to (5)**: 15

“(c) all penalties, if any, earlier imposed under this subsection.

“Compare: 1976 No 65 s 398; 1985 No 141 s 41

“134A Status of penalties under section 134 20

A penalty payable under **section 134**—

“(a) is a debt due to the Crown; and

“(b) must for all purposes (except the purposes of Part 9) be treated as, and is accordingly recoverable as if it were, of the same nature as the amount in respect of which it was imposed. 25

“Compare: 1976 No 65 s 398; 1985 No 141 s 41

“134B Saving for penalties imposed under section 134 before 1 April 2014

Section 134 does not limit or affect the person’s liability to pay any penalties imposed in respect of the same debt under the former section 134 before it was repealed on **1 April 2014** by the **Child Support Amendment Act 2011**. 30

“~~134E~~B Act’s provisions on liable people’s financial support debt also apply to payees’ debts arising from overpayments

This Act’s provisions on a liable person’s financial support debt (including, without limitation, sections **134** and 135 to 135N) also apply, in accordance with ~~section~~ sections 151(2) and **151AA(5) and (6)**, to payees’ debts arising from overpayments.”

Amendments to Part 8 (relief from penalties)

29 Interpretation for purposes of sections 135A to 135O

(1) The heading to section 135 is amended by omitting “**135A**” and substituting “**135AA**”.

(2) Section 135 is amended by repealing the definitions of **incremental penalty** and **initial late payment penalty** and substituting the following definitions:

“**incremental penalty** means a penalty that is imposed—

“(a) before **1 April 2014 2015** under section 134(1)(b) or (c) (as repealed by the **Child Support Amendment Act 2011**); or

“(b) on or after **1 April 2014 2015** under **section 134(4), (5), or (6)** (as substituted by the **Child Support Amendment Act 2011**)

“**initial late payment penalty** means a penalty that is imposed—

“(a) before **1 April 2014 2015** under section 134(1)(a) (as repealed by the **Child Support Amendment Act 2011**); or

“(b) on or after **1 April 2014 2015** under **section 134(2) or (3)** (as substituted by the **Child Support Amendment Act 2011**)”.

Amendment to Part 8 (payment agreements)

30 New heading and section 135AA inserted

The following heading and section are inserted after section 135:

“Sufficient reason for declining to enter into or make payment agreement

“135AA Non-compliance without reasonable cause with previous payment agreements

- “(1) The Commissioner may decline to enter into a payment agreement with a liable person solely for the reason that the Commissioner is satisfied on the basis of information available to the Commissioner of both of the following matters:
 - “(a) that the liable person has not complied with 1 or more earlier payment agreements; and
 - “(b) that no reasonable cause existed for the liable person’s non-compliance with all or any of those agreements.
- “(2) This section does not prevent the Commissioner from—
 - “(a) declining to enter into the agreement for any other reason; or
 - “(b) ceasing, because of further information available to the Commissioner, to be satisfied of either or both of those matters.
- “(3) For the purposes of section 96 (which identifies matters with respect to which Part 6 does not confer any right of objection), the Commissioner’s decision whether to enter into or make a payment agreement is a matter left by this section to the discretion of the Commissioner.”

Amendments to Part 8 (discretionary relief from penalties)

31 Application of sections 135B to 135G

- (1) The heading to section 135A is amended by omitting “**135G**” and substituting “**135GA**”.
- (2) Section 135A(1) and (2) are amended by omitting “135G” and substituting in each case “**135GA**”.

32 New section 135FA inserted

The following section is inserted after section 135F:

“135FA Discretionary relief from incremental penalties unpaid before agreement entered into on or after 1 April 2014 2015”

- “(1) For the purposes of this section,—

“**initial debt**, in relation to a payment agreement, means the amount the liable person owes at the time that the agreement is entered into in respect of financial support and initial late payment penalties

“**payment agreement** means an agreement entered into on or after **1 April 2014 2015** between a liable person and the Commissioner that requires the liable person to pay, in 1 sum or 2 or more instalments of specified amounts,—

“(a) the amount of the initial debt; and

“(b) the amount of financial support (if any) that the person will become liable to pay during the term of the payment agreement.

“(2) The Commissioner may grant relief to the liable person in the manner prescribed by section 135A in respect of the incremental penalties of the liable person that were unpaid at the time a payment agreement was entered into if the Commissioner is satisfied that recovery of those incremental penalties would do either or both of the following:

“(a) place the liable person in serious hardship (as defined in section 135G(3));

“(b) involve an inefficient use of the Commissioner’s resources.

“(3) Before making a decision under **subsection (2)(b)**, the Commissioner must have regard to the matters referred to in sections 6 and 6A of the Tax Administration Act 1994.”

33 Discretionary relief for residual incremental penalty debt

(1) Section 135G(1)(a) is amended by inserting “some or” before “all of the financial support debt and initial late payment penalties to which the incremental penalties relate”.

(2) Section 135G(3) is amended by inserting “and **section 180A(b)**” after “In this section”.

34 New section 135GA inserted

The following section is inserted after section 135G:

“135GA Discretionary relief for residual penalty-only debt

“(1) The Commissioner may grant relief to a liable person from the payment of initial late payment penalties or incremental

penalties or both in the manner prescribed by section 135A if—

- “(a) the liable person has paid, or had written off in accordance with this Act, all of the liable person’s financial support debt; and
- “(b) the Commissioner is satisfied that recovery of those penalties would involve an inefficient use of the Commissioner’s resources.

“(1A) The Commissioner may grant relief to a liable person from the payment of initial late payment penalties, or incremental penalties, or both, in the manner prescribed by section 135A, if—

- “(a) the Commissioner has under **section 180A** written off all of the benefit component of an amount of child support (as defined in **section 180A(2)**) that is payable by the liable person to the Crown under this Act; and
- “(b) the Commissioner is satisfied that those penalties relate to, or arise from, all of that written-off benefit component, and that recovery of those penalties would involve an inefficient use of the Commissioner’s resources.

“(2) Before making a decision under **subsection (1)(b) or (1A)(b)**, the Commissioner must have regard to the matters referred to in sections 6 and 6A of the Tax Administration Act 1994.”

Amendment to Part 8 (mandatory relief from initial late payment penalties)

35 New sections 135GB and 135H inserted

Section 135H is repealed and the following sections are inserted:

“**135GB Relief from initial late payment penalty if full or substantial compliance with payment arrangement entered into or made on or after 1 April 2014 2015 and within 3-month period**

- “(1) The Commissioner must write off an initial late payment penalty if satisfied that—
 - “(a) that penalty was imposed in respect of a debt that is or includes the first payment of financial support payable

- by the liable person under a formula assessment, voluntary agreement, or order of the court issued or made before, on, or after **1 April 2014 2015**; and
- “(b) a payment arrangement was entered into or made on or after **1 April 2014 2015** and within the 3 months that began on the date of issue or making of the assessment, agreement, or order under which that first payment is payable, and has been fully or substantially complied with in accordance with **subsection (5)**. 5
- “(2) The payment arrangement referred to in **subsection (1)(b)** must be a payment agreement specified in **subsection (3)** or a deduction notice specified in **subsection (4)**. 10
- “(3) The payment agreement is one that the liable person entered into with the Commissioner to pay, in 1 sum or 2 or more instalments of specified amounts,— 15
- “(a) the first payment mentioned in **subsection (1)(a)**; and
- “(b) other payments of financial support that were or would become payable (under the assessment, agreement, or order mentioned in **subsection (1)(a)**, or any other assessment, voluntary agreement, or order of the court) by the liable person. 20
- “(4) The deduction notice is one that the Commissioner gave a person under section 154 in relation to the liable person in order to collect, in 1 sum or 2 or more deductions and payments,— 25
- “(a) the first payment mentioned in **subsection (1)(a)**; and
- “(b) other payments of financial support that were or would become payable (under the assessment, agreement, or order mentioned in **subsection (1)(a)** or any other assessment, voluntary agreement, or order of the court) by the liable person. 30
- “(5) The payment arrangement referred to in **subsection (1)(b)** has been fully or substantially complied with in accordance with this subsection if the arrangement has operated for a period that the Commissioner considers reasonable and— 35
- “(a) it is a payment agreement, and to date there has been either no default in the payment in accordance with that agreement of the 1 sum, or every one of the 2 or more instalments, specified in **subsection (3)**, or only de-

- fault of that kind to an extent, or arising from a cause, that the Commissioner considers reasonable; or
- “(b) it is a deduction notice, and to date there has been either no default in the making in accordance with that notice of every one of the 2 or more deductions and payments specified in **subsection (4)**, or only default of that kind to an extent, or arising from a cause, that the Commissioner considers reasonable. 5
- “(6) If an initial late payment penalty written off under **subsection (1)** has been paid in whole or in part, the Commissioner must refund to the liable person the whole or part of the penalty paid. 10
- “**135H Relief from initial late payment penalty if full compliance with payment arrangement entered into or made before 1 April 2014 2015 and within 3-month period**
- “(1) The Commissioner must write off an initial late payment penalty if satisfied that— 15
- “(a) that penalty was imposed in respect of a debt that is or includes the first payment of financial support payable by the liable person under a formula assessment, voluntary agreement, or order of the court issued or made before, on, or after **1 April 2014 2015**; and 20
- “(b) a payment arrangement was entered into or made on or after 26 September 2006 and before **1 April 2014 2015** and within the 3 months that began on the date of issue or making of the assessment, agreement, or order under which that first payment is payable, and has been fully complied with in accordance with **subsection (5)**. 25
- “(2) The payment arrangement referred to in **subsection (1)(b)** must be a payment agreement specified in **subsection (3)** or a deduction notice specified in **subsection (4)**. 30
- “(3) The payment agreement is one that the liable person entered into with the Commissioner to pay, in 1 sum or 2 or more instalments of specified amounts,—
- “(a) the first payment mentioned in **subsection (1)(a)**; and
- “(b) other payments of financial support that were or would become payable (under the assessment, agreement, or order mentioned in **subsection (1)(a)**), or any other as- 35

- assessment, voluntary agreement, or order of the court) by the liable person.
- “(4) The deduction notice is one that the Commissioner gave a person under section 154 in relation to the liable person in order to collect, in 1 sum or 2 or more deductions and payments,— 5
- “(a) the first payment mentioned in **subsection (1)(a)**; and
- “(b) other payments of financial support that were or would become payable (under the assessment, agreement, or order mentioned in **subsection (1)(a)** or any other assessment, voluntary agreement, or order of the court) by the liable person. 10
- “(5) The payment arrangement referred to in **subsection (1)(b)** has been fully complied with in accordance with this subsection if—
- “(a) it is a payment agreement, and the 1 sum, or every one of the 2 or more instalments, specified in **subsection (3)** is paid in full in accordance with that agreement; or 15
- “(b) it is a deduction notice, and every one of the 2 or more deductions and payments specified in **subsection (4)** is made in accordance with that notice. 20
- “(6) If an initial late payment penalty written off under **subsection (1)** has been paid in whole or in part, the Commissioner must refund to the liable person the whole or part of the penalty paid.”

Amendments to Part 8 (mandatory relief from incremental penalties) 25

36 Relief from incremental penalties unpaid before agreement entered into

- (1) The heading to section 135J is amended by adding “**on or after 26 September 2006 but before 1 April 2014**”. 30
- (2) The definition of **payment agreement** in section 135J(1) is amended by omitting “after the commencement of this section” and substituting “on or after 26 September 2006 ~~but before 1 April 2014~~”.

37 Relief from incremental penalties in relation to arrangements entered into or made before commencement

- (1) The heading to section 135K is amended by omitting “**before commencement**” and substituting “**before 26 September 2006**”. 5
- (2) The definition of **payment agreement** in section 135K(1) is amended by omitting “before the commencement of this section” and substituting “before 26 September 2006”.
- (3) The definition of **specified deduction notice** in section 135K(1) is amended— 10
- (a) by omitting “before the commencement of this section” and substituting “before 26 September 2006”; and
- (b) by omitting “before this section comes into force” and substituting “before 26 September 2006”. 15

38 Relief from ongoing incremental penalties if payment agreement in force

Section 135M is amended by repealing subsection (1) and substituting the following subsection:

- “(1) This section applies if— 20
- “(a) an incremental penalty is by operation of law imposed on a person at the expiry of a 1-month period; and
- “(b) during that 1-month period, the person is liable to pay financial support, initial late payment penalties, or incremental penalties that are payable in 1 sum, or in 2 or 25 more instalments, under a payment agreement entered into between the person and the Commissioner; and
- “(c) every sum or instalment payable under the payment agreement during that 1-month period has during that 1-month period been paid in full in accordance with the 30 payment agreement.”

39 Relief from ongoing incremental penalties if deduction notice in force

Section 135N is amended by repealing subsection (1) and substituting the following subsection: 35

- “(1) This section applies if—

- “(a) an incremental penalty is by operation of law imposed on a person at the expiry of a 1-month period; and
- “(b) during that 1-month period, the person is liable to pay financial support, initial late payment penalties, or incremental penalties by way of deductions required to be made, and paid to the Commissioner, under a deduction notice given under section 154; and 5
- “(c) each deduction required during that 1-month period to be made, and paid to the Commissioner, under the deduction notice has during that 1-month period been made (even if it has not also been paid to the Commissioner) in accordance with the deduction notice.” 10

Amendments to Part 9 (payment)

40 Method in which payments to be made

The heading to section 148 is amended by omitting “in” and substituting “by”. 15

40A Overpayments to payees

- (1) The heading to section 151 is amended by adding “before 1 April 2015”.
- (2) Section 151(1) is amended by inserting “before 1 April 2015” before “paid an amount under any provision of this Part”. 20

40B New section 151AA inserted

The following section is inserted after section 151:

“151AA Overpayments to payees on or after 1 April 2015

- “(1) This subsection applies to an amount that on or after 1 April 2015 is paid to a payee under any provision of this Part if— 25
- “(a) the payee was not entitled to be paid the amount; or
- “(b) the amount is, because of a subsequent variation in the liability of the liable person, repayable by the Commissioner to the liable person; or 30
- “(c) the amount is, because of a subsequent variation in the entitlement of the payee, in excess of the amount properly payable to the payee under this Act.

- “(2) An amount to which **subsection (1)** applies is, if that amount is assessed by the Commissioner in the exercise of the Commissioner’s discretion under **subsection (3)**,—
“(a) repayable by the payee to the Commissioner; and
“(b) a debt due by the payee to the Crown. 5
- “(3) The Commissioner may assess an amount to which **subsection (1)** applies.
- “(4) An assessment under **subsection (3)** must be in writing, and must be copied to the payee.
- “(5) This Act (subject to **subsection (6)**) applies to the amount assessed, and to the payee, as if— 10
“(a) that amount was financial support; and
“(b) the payee was a liable person.
- “(6) Sections **134, 134A**, and 135 to 135N (which relate to penalties and to relief from them) apply to an amount assessed under **subsection (3)** and to the payee unless the Commissioner, in the Commissioner’s discretion under this subsection, determines in writing copied to the payee that all of those sections do not apply to the amount assessed. 15
- “(7) A determination under **subsection (6)** may be combined with, or later than and separate from, an assessment under **subsection (3)**. 20
- “(8) If the payee is entitled to receive further payments under any provision of this Part, the amount of the debt due to the Crown by the payee may be recovered by reducing such of those payments by such amount as is determined in writing by the Commissioner.” 25

40C Section 151A repealed
Section 151A is repealed.

- 40D Relief in cases of serious hardship** 30
- (1) Section 152(a) is amended—
(a) by inserting “or **151AA**” after “section 151”; and
(b) by inserting “or **151AA(6)**” after “section 151(3)”.
- (2) Section 152(b) is amended by inserting “or **151AA(6)**” after “section 151(3)”. 35

40E Relief in case of exemption granted to liable person

Section 152A(1)(a) is amended by inserting “or **151AA**” after “section 151”.

40F New section 152B inserted

Section 152B (as inserted by **section 22** of this Act) is repealed and the following section substituted: 5

“152B Offsetting child support payments

“(1) If 2 parents of a child are each liable to pay the other an amount of, or of the same nature as, child support, whether that amount is by way of New Zealand child support, foreign child support, or both (as those terms are defined in section 214), the Commissioner may offset one liability against the other. 10

“(2) One or both of the 2 parents’ liabilities may be, wholly or in part, all or any of the following:

“(a) liabilities in respect of the 2 parents caring at different times for the child; 15

“(b) liabilities in respect of the 2 parents caring at the same time for 2 or more different children of both of the 2 parents;

“(c) liabilities in respect of the current child support year, or 1 or more previous child support years; 20

“(d) liabilities in respect of child support payable under this Act;

“(e) liabilities in respect of child support under an arrangement given force and effect in relation to New Zealand by an Order in Council under section 215 (adoption of reciprocal agreement with other countries). 25

“(3) However, the Commissioner may not exercise this power in respect of any parent who is, at the time, a social security beneficiary.” 30

*Amendment to Part 10 (automatic deductions)***41 Deduction notice**

Section 154(1) is amended by omitting “section 130 or section 131” and substituting “**section 129**”.

Amendments to Part 11 (discretion to write off certain child support debt and recognition of qualifying payments for child's direct benefit)

42 New sections 180A to 180C inserted

The following section is sections are inserted after section 180: 5

“180A Commissioner may write off benefit component of child support debt if receiving carer is or was social security beneficiary and recovery would place liable person in serious hardship or involve inefficient use of Commissioner’s resources 10

“(1) The Commissioner may write off some or all of the benefit component of an amount of child support that is payable by the liable person to the Crown under this Act, and that is unpaid and in arrear, if—

“(a) the receiving carer is or was a social security beneficiary (as defined in section 2(1)) at the time the child support is or was payable; and 15

“(b) the Commissioner is satisfied that recovery of ~~that amount~~ that part or, as the case requires, all, of the benefit component of the amount of child support would ~~place the liable person in serious hardship (as defined in section 135G(3))~~; do either or both of the following: 20

“(i) place the liable person in serious hardship (as defined in section 135G(3)); 25

“(ii) involve an inefficient use of the Commissioner’s resources.

“(2) The **benefit component** of an amount of child support, in **sub-section (1)**, means so much of that amount as is not payable to the receiving carer under section 142(1)~~(g)~~(f). 30

“180B Commissioner may write off child support debt if liable person has died and his or her estate is insufficient

“(1) The Commissioner may write off some or all of an amount of child support debt that is payable by the estate of a liable person to the Crown under this Act, and that is unpaid and in arrear, if— 35

“(a) the liable person has died; and

“(b) the Commissioner is satisfied that the liable person’s estate is insufficient to pay the part, or all, of the amount.

“(2) **Subsection (1)** applies even if no order has been made that the liable person’s estate be administered under Part 6 (insolvent deceased estates) of the Insolvency Act 2006.

5

“**180C Commissioner may write off child support debt if receiving carer has died and it is likely to be unable to be recovered**

The Commissioner may write off some or all of an amount of child support debt that is payable by a liable person to the Crown under this Act, and that is unpaid and in arrear, if—

10

“(a) the receiving carer has died; and

“(b) the Commissioner is satisfied that the part, or all, of the amount is for any reason likely to be unable to be recovered.”

15

43 Direct payment to payee

Section 206 is amended by adding the following subsection as subsection (2):

“(2) Subsection (1) is subject to **section 131** (which relates to recognition of qualifying payments for a child’s direct benefit).”

20

Amendment to Part 16 (transitional and savings provisions)

43A New section 276 substituted

Section 276 (as added by **section 22D** of this Act) is repealed and the following section substituted:

25

“**276 Application, savings, and transitional provisions relating to amendments to Act**

The application, savings, and transitional provisions relating to, or to the provisions of, the amendment Acts specified in the first column of the following table are set out in the Parts of **Schedule 1AA** specified in the second column of that table.

30

<u>Amendment Act or provisions of it</u>	<u>Schedule 1AA Part</u>
Child Support Amendment Act 2011: Part 1 (except sections 5A, 22D, and 22E)	Part 1
Child Support Amendment Act 2011: Part 2	Part 2

Amendments to Schedule 1AA

- 44** Schedule 1AA amended
- (1) Schedule 1AA (as inserted by **section 22E** of this Act) is amended by inserting the following Part heading before **clause 1**: 5
- “Part 1**
“Child Support Amendment Act 2011:
provisions relating to amendments
effective on 1 April 2014”.
- (2) Schedule 1AA (as inserted by **section 22E** of this Act) is amended by adding the following Part: 10
- “Part 2**
“Child Support Amendment Act 2011:
provisions relating to amendments
effective on 1 April 2015 15
- “9** Amendments to Part 7 (grounds for departure from formula assessment)
Section 105(2)(d), (7), and (8) (as substituted or added on **1 April 2015** by the **Child Support Amendment Act 2011**) apply only to the following made on or after **1 April 2015**: 20
- “(a)** applications under section 96B;
“(b) applications under section 104.
- “10** Amendments to Part 8 (penalties imposed under section 134 before 1 April 2015)
- “(1)** **Section 134** (as substituted on **1 April 2015** by the **Child Support Amendment Act 2011**) does not limit or affect a person’s liability to pay any penalties imposed in respect of the same debt under section 134 (as in force before **1 April 2015**). 25
- “(2)** The reference in **section 134(1)** (as substituted on **1 April 2015**) to a financial support debt incurred before 30

1 April 2015 includes any initial late payment penalties or incremental penalties or both that are imposed under section 134(1) (as in force before **1 April 2015**) in respect of, and that are deemed under section 134(2) (as in force before **1 April 2015**) to be of the same nature as, that debt.

5

“(3) An initial late payment penalty (seventh day after due date) under **section 134(3)** (as substituted on **1 April 2015**) must not be imposed on a financial support debt on which an initial late payment penalty under section 134(1)(a) (as in force before **1 April 2015**) was imposed on or after **25 March 2015**.

10

“(4) **Section 134(4)** (as substituted on **1 April 2015**) applies to a financial support debt on which an initial late payment penalty under section 134(1)(a) (as in force before **1 April 2015**) was imposed on or after **1 March 2015**.

“(5) **Section 134(5) or (6)** (as substituted on **1 April 2015**) applies (as the case requires) to a financial support debt on which an incremental penalty under (as the case requires) section 134(1)(b) or (c) (as in force before **1 April 2015**) was imposed on or after **1 March 2015**.

15

“(6) The Commissioner may, in the Commissioner’s discretion, grant relief from initial late payment penalties, incremental penalties, or both, imposed on a person under **section 134** (as substituted on **1 April 2015**) if satisfied that the relief is necessary or desirable to prevent unfairness arising from corresponding equivalent penalties also having been imposed on the person under section 134 (as in force before **1 April 2015**).”

20

25

Schedule 1A **s 22D**
New Schedule 1AA inserted

Schedule 1AA **ss 2A, 276**
Application, savings, and transitional provisions relating to amendments to Act made on or after 1 April 2014 5

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1 **Definitions**

In this clause and **clauses 2 to 8**, unless the context otherwise requires,—

commencement date means **1 April 2014** (which is the date on which **Part 1** (except **sections 5A, 22D, and 22E**) of the Child Support Amendment Act **2011** comes into force) 10

new assessment means a formula assessment made or applied for under the new provisions and applying after the commencement date to the child support year ending on 31 March 2015 15

new formula means the formula assessment as provided for by the new provisions

new provisions means the provisions of this Act as amended by **Part 1** of the Child Support Amendment Act **2011**; and references to **new section** and **new Part** have a corresponding meaning 20

old assessment means a formula assessment made or applied for under the old provisions

New Schedule 1AA inserted—continued

old formula means the formula assessment as provided for under the old provisions

old provisions means the provisions of this Act as they are immediately before **Part 1** of the Child Support Amendment Act **2011** comes into force; and references to **old section** and **old Part** have a corresponding meaning. 5

2 **New provisions treated as if in force for certain purposes**

(1) This clause applies for the purpose of ensuring that, at the start of the child support year commencing **1 April 2014**, the annual rate of child support payable under the new formula has been ascertained in relation to every person who is or will be subject to a formula assessment on the commencement date. 10

(2) For the purpose described in **subclause (1)**,—

(a) the new provisions apply as if they were in force; and

(b) the Commissioner may exercise any powers under the new provisions, and take any steps necessary, to enable that purpose to be achieved. 15

(3) However, until the commencement date, nothing in the new provisions affects an old assessment, and no new assessment may take effect. 20

3 **Determinations made under old provisions**

(1) If a determination relating to an old assessment has been made under Part 6A or Part 6B before the commencement date, the Commissioner must apply that determination when making any new assessment, but only if the determination relates to an element in the new formula. 25

(2) If the determination does not relate to an element in the new formula, the determination must be disregarded when making the new assessment.

4 **Application for determination under old provisions** 30

If a review or an application for a review under Part 6A or Part 6B has been commenced but not completed by the com-

New Schedule 1AA inserted—continued

mencement date, the Commissioner must, on and after the commencement date, act on the basis that,—

(a) to the extent that the review or application applies to an old assessment, the old provisions apply; and

(b) to the extent that the review or application applies to a new assessment, the new provisions apply. 5

5 Appeals and applications under old Part 7

(1) An objection, appeal, or application relating to an old assessment may be lodged under and in accordance with old Part 7 before or after the commencement date, in which case the appeal must be dealt with and completed on the basis of the old provisions. 10

(2) An objection, appeal, or application relating to a new assessment may be lodged either before the commencement date under and in accordance with old Part 7, or after the commencement date under and in accordance with new Part 7; but, in either case, the appeal or application must not be dealt with until after the commencement date, and must then be dealt with and completed on the basis of the new provisions. 15

6 Orders made by court 20

Where an order of the court made under old section 106 affects, or will affect, a new formula assessment applying to a person, the Commissioner must act on the basis of that order in relation to any period after the commencement date to which the order applies. 25

7 Application for variation of court orders

After the commencement date, if any person applies for a variation of a court order that was made under old section 106, the application must be dealt with and completed on the basis that a new assessment applies to the parties. 30

New Schedule 1AA inserted—continued**8** **Transitional regulations**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for either or both of the following purposes:
- (a) prescribing how the new provisions and the old provisions must be applied or modified in order to ensure that notices of assessment for new formula assessments are given before the commencement date to all those to whom they will apply: 5
- (b) prescribing assumptions that may be made concerning any element of the new formula, in order to ensure that new formula assessments are complete before the commencement date, but any such assumption must be subject to correction by any party to whom it relates or applies. 10
15
- (2) Regulations made under this clause must include a date on which the regulations are repealed, and that date must be no later than 3 years after the date on which they are made.
- (3) The Minister may recommend the making of regulations under this clause only if satisfied that the regulations are consistent with the purposes of this Act and **clauses 1 to 7** of this Schedule, and are necessary or desirable for the orderly implementation of **Part 1** of the Child Support Amendment Act **2011**. 20
- (4) This clause expires and is repealed on **1 April 2016**.
-

Schedule 1
New Schedules 1 and 2 inserted

s 23

Schedule 1
Care cost percentage

s 2(1), 16

Item	Column 1: Proportion of on-going daily care	Column 2: Care cost percentage
1	0 to less than 28% <u>27%</u>	Nil
2	28% to less than 35% <u>34%</u>	24%
3	35% to less than 48% <u>47%</u>	25% plus 2% for each percentage point over 35%
4	48% to 52%	50%
5	more than 52% <u>53%</u> to 65%	51% plus 2% for each percentage point over 53%
6	more than 65% <u>66%</u> to 72%	76%
7	more than 72% <u>73%</u> to 100%	100%

Schedule 2 Expenditure on children

s 36D

This table sets out percentages of child support income amounts that are expended on children. The percentages represent marginal expenditure, which means how much of each additional dollar of child support income in an AWE* band is treated as expenditure on children. Where child support income extends over several AWE bands, expenditure therefore accumulates down the columns.

Fraction of AWE	Percentages of child support income amounts								
	<i>Age group: all children aged 0 to 12</i>			<i>Age group: all, or the oldest 3, children aged 13 or over</i>			<i>Age group: at least 1 child aged 0 to 12, and 1 or 2 children aged 13 or over</i>		
	Number of children			Number of children			Number of children		
	1	2	3 or more	1	2	3 or more	2	3 or more	
0 to 0.5	17%	24%	27%	23%	29%	32%	26.5%	29.5%	
0.5 to 1	15%	23%	26%	22%	28%	31%	25.5%	28.5%	
1 to 1.5	12%	20%	25%	12%	25%	30%	22.5%	27.5%	
1.5 to 2	10%	18%	24%	10%	20%	29%	19%	26.5%	
2 to 2.5	7%	10%	18%	9%	13%	20%	11.5%	19%	
Over 2.5	†	†	†	†	†	†	†	†	

*Average weekly earnings, as published by Statistics New Zealand (for all industries, males and females combined) for the June quarter in the immediately preceding child support year. The weekly earnings are annualised.

†For child support income amounts that exceed 2.5 times AWE, the marginal expenditure on children does not increase. The relevant amounts to be inserted in a child expenditure table in this row are therefore the maximum amounts from the row immediately above it.

Schedule 2

Consequential amendments to principal Act

s 24

Section 1Heading: omit “**Short**”.

Subsection (1): omit “may be cited as” and substitute “is”. 5

Section 2(1)Definition of **child support income amount**: omit “section 29” and substitute “**section 32**”.Definition of **formula assessment**: omit “Part 2” and substitute “Parts 1 and 2”. 10Definition of **inflation percentage**: omit and substitute:

“**inflation percentage** means, in relation to a child support year, the movement in the all groups index number of the New Zealand Consumers Price Index during the 12-month period that ends with 31 December before the start of the child-support year”. 15

Definition of **living allowance**: omit “section 30” and substitute “**section 34**”.Definition of **payee**: omit “the person who is the qualifying custodian” and substitute “a person who is a receiving carer”. 20Definition of **properly made**: omit and substitute:

“**properly made**, in relation to an application for acceptance of a voluntary agreement, means made in accordance with section 55”. 25

Section 26Heading: omit “**custodian**” and substitute “**carer**”. 25

Omit “eligible custodian” in each place where it appears and substitute in each case “receiving carer”.

Subsection (1): omit “25(1)(c)(i)” and substitute “**25(3)(a)(i)**”.Subsection (2): omit “25(1)(c)(ii)” and substitute “**25(3)(a)(ii)**”. 30

Section 27

Heading: omit “**eligible custodian**” and substitute “**receiving carer**”.

Subsection (1): omit “An eligible custodian” and substitute “A receiving carer”.

5

Section 28(4)

Omit “custodian” and substitute “carer”.

Section 38

Omit “taxable income” in each place where it appears and substitute in each case “adjusted taxable income”.

10

Subsection (5)(a): omit “the annual rate of child support payable by a liable parent” and substitute “the annual amount of child support payable by a person”.

Subsection (5)(b): omit “the liable parent” and substitute “any parent”.

15

Section 38A

Subsection (1): omit “assesses the annual rate of child support payable under a formula assessment by a liable parent whose” and substitute “works out the income of a parent for the purposes of making a formula assessment, where the parent’s”.

20

Subsection (2): repeal and substitute:

“(2) If, at the time of making the assessment, the Commissioner is unable to determine the amount of the parent’s taxable income for the most recent tax year, the Commissioner may make a formula assessment on the basis that the parent’s child support income amount is the sum of—

25

“(a) the taxable income derived by the parent in the first 10 months of the most recent tax year; and

“(b) an amount that is equal to one-fifth of that taxable income.”

30

Subsections (3) and (4): omit “liable” in each case.

Section 39

Subsection (2): repeal.

Section 39A

Omit “liable” in each place where it appears.
 Subsection (1): omit “, being income that is taxable in that country,”.
 Subsection (3)(a): repeal.

Heading above section 40

5

Insert “*adjusted*” after “*estimated*”.

Section 40

Heading: omit “**taxable income for child support purposes is**” and substitute “**adjusted taxable income**”.

10 Omit “taxable income” in each place where it appears and substitute in each case “adjusted taxable income”.

Section 42(2A)(b)

Omit “taxable income” and substitute “adjusted taxable income”.

Section 43(1)

15 Omit “child support income amount” in each place where it appears and substitute in each case “adjusted taxable income”.

Section 44

Heading: insert “**adjusted**” after “**actual**”.

20 Omit “taxable income” in each place where it appears and substitute in each case “adjusted taxable income”.

Subsection (1A): omit “child support income amount” in each place where it appears and substitute in each case “adjusted taxable income”.

Section 44A

25 Heading: omit “**of estimated income**”.

Subsection (2): omit “child support income amount” in each place where it appears and substitute in each case “adjusted taxable income”.

Section 45(3)

30 Omit “taxable income” and substitute “adjusted taxable income”.

Section 47(2)(b)

Omit “an eligible custodian” and substitute “a carer”.

Section 48(1)(a)(i)

Omit “the eligible custodian” and substitute “a carer”.

Section 62(1)(a)

5

Omit “qualifying custodian” and substitute “carer of the child”.

Section 65

Subsection (1): omit “a person who is a qualifying custodian or a liable parent” and substitute “any parent or carer”.

Subsection (2): omit “qualifying custodian” in each place where it appears and substitute in each case “carer”. 10

Section 77

Omit “In making an assessment of child support or domestic maintenance” and substitute “For the purpose of determining liability under a formula assessment, or making an assessment of child support or domestic maintenance”. 15

Section 78

Repeal.

Section 81

Subsection (1): omit “liable parent” and substitute “parent of a qualifying child”. 20

Subsection (2): omit “liable parent” in each place where it appears and substitute in each case “person”.

Subsection (3): repeal.

Section 86(1)(a)

25

Omit “qualifying custodian” and substitute “carer”.

Section 87(3)(d)

Omit “to the acceptance of an application for” and substitute “to a”.

Section 89F(1)(a)(ii)

Insert after “income” “(subject to **sections 89C(1A) and 89D(1A)**)”.

Section 89N(1)(b)

Omit “qualifying custodian” in each place where it appears and substitute in each case “receiving carer”. 5

Section 89O(1)

Omit “both” and substitute “all”.

Section 89Z(3)

Omit “accepts an application for formula assessment of child support under section 17(1)” and substitute “receives a properly completed application for formula assessment under Part 1”. 10

Section 95(2)(a)

Omit “section 100” and substitute “section 102”.

Section 96B

15

Omit “qualifying custodian” in each place where it appears and substitute in each case “receiving carer”.

Section 96C(1)(b)(ii)(A)

Omit “qualifying custodian” and substitute “receiving carer”.

Heading to Part 6A

20

Omit “**qualifying custodian**” and substitute “**receiving carer**”.

Section 96R(1)(b)(i)

Omit “the qualifying custodian” and substitute “the receiving carer”.

Section 96T

Heading: omit “**liable**” and substitute “**subject**”. 25

Omit “liable” in each place where it appears and substitute in each case “subject”.

Section 96U

Heading: omit “**liable**” and substitute “**subject**”.

Omit “liable” in each place where it appears and substitute in each case “subject”.

Section 96V(a)

5

Omit “liable” and substitute “subject”.

Section 96W

Heading: omit “**liable**” and substitute “**subject**”.

Subsection (1): omit “liable” and substitute “subject”.

Subsection (2)(a): omit “liable parent of the rights of the liable” and substitute “subject parent with the rights of the subject”. 10

Subsection (2)(a): omit “the qualifying custodian (if the qualifying custodian elects to become a party under section 96Y)” and substitute “any receiving carer or liable parent who elects to become a party under section 96Y”. 15

Subsection (2)(b): omit “liable” and substitute “subject”.

Section 96X

Heading: omit “**qualifying custodian**” and substitute “**receiving carers and liable parent who is not subject parent**”.

Omit “qualifying custodian” and substitute “receiving carers and any liable parent who is not the subject parent”. 20

Paragraph (b): omit “qualifying custodian’s” and substitute “receiving carer’s or liable parent’s”.

Paragraph ~~(b)~~ (c): omit “liable parent and of the qualifying custodian (if the qualifying custodian elects to become a party under section 96Y)” and substitute “subject parent and of any receiving carer or liable parent who elects to become a party under section 96Y”. 25

Section 96Y

Heading: omit “**qualifying custodian**” and substitute “**receiving carer or by liable parent who is not subject parent**”. 30

Subsection (1): omit “The qualifying custodian” and substitute “Any receiving carer, or any liable parent who is not the subject parent,”.

Section 96Y—*continued*

Subsections (2) ~~and (3)~~: omit “qualifying custodian” in each place where it appears and substitute in each case “receiving carer”.

Subsection (3): omit “qualifying custodian” in each place where it appears and substitute in each case “receiving carer or liable parent”.

Subsection (4): omit “liable parent of any election made by the qualifying custodian” and substitute “subject parent of any election made by a receiving carer or by a liable parent who is not the subject parent”. 5

Subsections (5) and (6): omit “qualifying custodian” and substitute in each case “receiving carer or liable parent who is not the subject parent”. 10

Section 96Z

Heading: omit “**liable parent or qualifying custodian**” and substitute “**parties**”.

Subsection (1): omit “A liable parent, and a qualifying custodian who elects to become a party under section 96Y, may each” and substitute “Any party may”. 15

Subsection (2): omit “~~by~~ a liable parent or qualifying custodian” and substitute “a party”.

Subsection (2)(b)(i): omit “liable” in each place where it appears and substitute in each case “subject”. 20

Subsection (2)(b)(ii): omit “qualifying custodian” in each place where it appears and substitute in each case “receiving carer or a liable parent who is not the subject parent”.

Subsections (3), (4) and (5): omit “liable” in each place where it appears and substitute in each case “subject”. 25

Subsections (3), (4) and (5): omit “qualifying custodian” and substitute in each case “receiving carer or liable parent who is not the subject parent”.

Section 96ZA

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Subsection (2): omit “the liable parent and to the qualifying custodian (if that person is a party to the proceedings)” and substitute “each party”.

Section 96ZA—*continued*

Subsection (4): omit “qualifying custodian” and substitute “receiving carer or liable parent who is not the subject parent”.

Section 96ZB(2)

Omit “to—” and substitute “to each party to the proceedings.”

Paragraphs (a) and (b): repeal.

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Section 96ZC

Subsection (2): omit “the qualifying custodian and the liable parent” and substitute “the receiving carer and the subject parent each person affected by the proceedings”.

Subsection (3): omit “the qualifying custodian” and substitute “the receiving carer”.

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Section 98

Omit “eligible custodian” in each place where it appears and substitute in each case “receiving carer”.

Subsection (2)(b): omit “each custodian” and substitute “each receiving carer”.

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Subsection (2)(b): omit “eligible custodians” and substitute “receiving carers”.

Section 99

Subsection (1): omit “Any person who is an eligible custodian” and substitute “A parent or receiving carer”.

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Subsection (3): omit “custodian of the child in respect of whom the declaration is sought” and substitute “applicant for the declaration under this section”.

Section 102

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Heading: omit “**other administrative**”.

Subsection (1): omit “(other than an objection to which section 100 or section 101 applies)”.

Section 103

Subsection (1): omit “who is a liable person in respect of that” and substitute “affected by the”.

Subsection (3): omit “liable person in relation to whom the assessment was made” and substitute “person or persons affected by the assessment”.

Subsection (6): omit “liable person” and substitute “persons”.

Section 103B(1)

Omit “qualifying custodian” in each place where it appears and substitute in each case “receiving carer”.

Section 103C

Subsection (1): omit “A qualifying custodian or a liable parent” and substitute “Any party referred to in **section 96Q(2)**”.

Subsection (3)(b): omit “the other party (if any)” and substitute “any other party”.

Section 103E

Omit “qualifying custodian” in each place where it appears and substitute in each case “receiving carer”.

Section 104

Omit “qualifying custodian” in each place where it appears and substitute in each case “receiving carer”.

Section 105

Subsection (1)(b)(i): omit “~~the~~ qualifying custodian” and substitute “a receiving carer”.

~~Subsection (2)(b)(i): omit “qualifying custodian” and substitute “receiving carer”.~~

Subsection (2)(c)(ii): omit “to the child, to the qualifying custodian” and substitute “or a receiving carer to the child, to a liable parent or a receiving carer”.

Subsection (2)(c)(iii): omit “custodian” and substitute “liable parent or receiving carer”.

Section 105—*continued*

Subsection (2)(c)(iii): omit “liable parent” and substitute “liable parent or receiving carer”.

Subsection (4): omit “the qualifying custodian” in the first place where it appears and substitute “a receiving carer”.

Subsection (4)(f) and (g): omit “qualifying custodian” in each place where it appears and substitute in each case “receiving carer”. 5

Section 107

Omit “qualifying custodian” in each place where it appears and substitute in each case “receiving carer”.

Section 108

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Omit “qualifying custodian” in each place where it appears and substitute in each case “receiving carer”.

Section 109

Omit “qualifying custodian” in each place where it appears and substitute in each case “receiving carer”. 15

Section 110(1)

Paragraph (a): omit “qualifying custodian” and substitute “receiving carer”.

Paragraphs (b) and (c): omit “custodian” and substitute in each case “receiving carer”. 20

Section 111(2)(a)

Omit “custodian” and substitute “receiving carer”.

Section 112

Omit “qualifying custodian” in each place where it appears and substitute in each case “receiving carer”. 25

Section 113

Omit “qualifying custodian” in each place where it appears and substitute in each case “receiving carer”.

Section 115

Subsection (1): omit “section 100 or section 101 or”.

Subsection (2): omit “section 100” and substitute “section 102”.

Section 116

Subsection (2)(b): omit “eligible custodian” and substitute “carer”. 5

Subsection (3): omit “an eligible custodian” in each place where it appears and substitute in each case “a carer”.

Section 119

Subsection (1)(c)(i)(B): omit “qualifying custodian” and substitute “receiving carer”. 10

Subsection (2): omit “spousal” and substitute “domestic”.

Section 120(3)

Omit “sections 100 to 103” and substitute “section 102 or 103”.

Section 122(1)(a)

Repeal and substitute: 15

“(a) who is a parent or carer of a qualifying child; and”.

Section 125(2)

Omit “The custodian” and substitute “Any parent or carer”.

Section 141

Heading: omit “**custodians**” and substitute “**receiving carers**”. 20

Omit “qualifying custodian” in each place where it appears and substitute in each case “receiving carer”.

Section 142

Heading: omit “**custodians**” and substitute “**receiving carers**”.

Omit “qualifying custodian” in each place where it appears and substitute in each case “receiving carer”. 25

Section 143

Heading: omit “**custodians**” and substitute “**receiving carers**”.

Child Support Amendment Bill

Section 143—*continued*

Omit “qualifying custodian” in each place where it appears and substitute in each case “receiving carer”.

Subsections (1) and (1A): omit “custodian” in each place where it appears and substitute in each case “receiving carer”.

Section 144(1)

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Omit “qualifying custodian” and substitute “receiving carer”.

Section 237(3)(b)

Omit “to a custodian pursuant to section 32 or section 33” and substitute “to a carer pursuant to **section 36B or 36C**; or”.

Section 240

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Subsection (2)(a)(i): omit “the custodian” and substitute “any carer”.

Subsection (9): omit “returns of income supplied by” and substitute “income of”.

Legislative history

5 October 2011
8 May 2012

Introduction (Bill 337–1)
First reading and referral to Social Services
Committee
