

Child Support (Pass On) Acts Amendment Bill

Government Bill

As reported from the Social Services and Community Committee

Commentary

Recommendation

The Social Services and Community Committee has examined the Child Support (Pass On) Acts Amendment Bill and recommends that it be passed. We recommend all amendments unanimously.

Introduction

This omnibus bill would amend several Acts to enable child support payments administered by Inland Revenue (IR) to be “passed on” (paid) in full to beneficiaries on a sole parent rate of the main benefit (sole parent beneficiaries). Currently, sole parent beneficiaries are required to apply to IR for a formula assessment¹ of child support. IR collects these child support payments on behalf of the sole parent beneficiary. Child support payments are retained to offset the cost of that sole parent’s main benefit, and any remainder is paid to the sole parent beneficiary. Most other beneficiaries (such as re-partnered beneficiaries receiving a couple rate of benefit) have their child support payments passed on in full. The bill seeks to remedy this anomaly by passing on child support payments in full to sole parent beneficiaries, excluding recipients of the Unsupported Child’s Benefit (UCB). The bill would also make changes so that the child support passed on is treated as income by the Ministry of Social Development (MSD) when calculating entitlements to a benefit and other assistance under the Social Security Act 2018. The bill would also make changes so that child support is

¹ A formula assessment is used by Inland Revenue to determine who pays child support to whom, and the amount paid. Among other things, a formula assessment is based on both parents’ taxable incomes, the cost of raising a child, and the amount of time the child is in each parent’s care.

charged in line with new specifically designed charging rules for these child support payments.

To accomplish this, the bill would provide for the use of automated systems for charging income, based on an information share agreement between IR and MSD.

It also proposes to allow formula-assessed child support liability to be included as an allowable cost for temporary additional support (TAS). This reflects that these costs are essential and unavoidable, and aligns with the purpose of TAS.

The bill would amend the Child Support Act 1991, the Social Security Act, the Public and Community Housing Management Act 1992, and some regulations and rules made under these Acts.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss minor or technical amendments.

Treating child support as income during changes to benefit payments

Currently, child support payments are paid by IR monthly, whereas benefit payments are paid by MSD either weekly or fortnightly. The bill as introduced would treat monthly child support payments as weekly income by spreading it over a period of four or five weeks. This would be in order to calculate the amount of financial support a sole beneficiary is eligible to receive. However, the bill does not make clear how "information share child support payments" would be treated if benefit payments were suspended and then become payable again within a single child support income charging period. For example, payments to beneficiaries are suspended if they are out of the country.

To address this, we recommend amending clause 46 to insert clause 15AB in Schedule 3 of the Social Security Act. Under our proposed amendment, an "information share child support payment" would continue to be treated as income during a period when benefit payments suspend and then become payable again within a single child support income charging period.

Clause 15AB would also allow information share child support payments to be treated as income in other circumstances where a benefit may cease to be payable and become payable again within a single income charging period. These reasons could include a benefit expiring and the expiry being subsequently lifted, meaning MSD resumes payments. Clause 15AB would also enable an income charge for an information share child support payment to begin when a client's benefit or other assistance has been suspended or expired. This would enable MSD to charge the income against

any benefit or other assistance that becomes payable within the same income charging period.

Obligations to declare changes in income for public housing tenants

Under existing law, beneficiaries and public housing tenants have obligations to declare changes of circumstances, including changes in their income to MSD. The bill as introduced would amend section 113 of the Social Security Act to ensure these obligations are met for beneficiaries in circumstances where MSD would know about income changes for child support payments because of the information-sharing agreement with IR.²

However, under section 115 of the Public and Community Housing Management Act, the obligation for public housing tenants to declare changes in their income would remain. Retaining this obligation would no longer be necessary for tenants whose information is automatically disclosed to MSD via the information-sharing agreement. Further, it would be an administrative burden for both public housing tenants and MSD. Therefore, we recommend adding clause 64A to insert section 115A into the Public and Community Housing Management Act. This would clarify that public housing tenants do not have to notify changes in child support income where it would already be known because of the information-sharing agreement.

Beneficiaries may still need to notify MSD of a change in income

We note that our proposed section 115A includes some exceptions where public housing tenants would still be required to notify MSD of changes in their child support income. These exceptions are related to calculating eligibility for public housing, and, in particular, to matters relevant to a review of income-related rents. Exceptions include if, for any reason, the person did not receive the full payment, or was misidentified as the recipient of a payment. The exceptions mitigate the risk of an incorrect rent subsidy being paid to public housing tenants (which could create a risk of debt due to underpayment) due to an incorrect child support income charge. The changes are consistent with changes being made to the Social Security Act.

Treating child support as income when backdating benefit payments

It is not unusual for a person to be considered eligible to receive financial support from MSD from a period earlier than they actually apply to receive it. In these circumstances, MSD may backdate the payment of a benefit to include an appropriate period prior to a person's application.

For example, someone who separates from their partner at the beginning of the month and applies for financial assistance within 28 days may be entitled to a benefit from the day after the separation. Their benefit commencement may then be backdated and their entitlement back-paid to them if their application was approved by MSD.

² The information sharing agreement is effective from 1 July 2023.

If a person in these circumstances was also receiving child support payment administered by IR, there is a risk that after 1 July 2023, MSD would be required to consider the child support payments as income for that backdated period. We have been advised that this would be contrary to the bill's policy intent. Retrospective adjustments to these child support payments are only intended to be used to address specific errors, not to capture past child support payments.

We consider that these child support payments should only be treated as income according to the new income charging rules. This would mean that people only have these child support payments treated as income for the purposes of determining the rate of financial assistance after they actually started receiving a benefit payment. Therefore, we recommend amending clauses 37, 60, 61, and 64. These amendments would identify that this type of payment is a "general provisions child support payment" and is further exempted from being treated as income when determining the rate of financial assistance payable for a backdated period on or after 1 July 2023.

Deprivation of income provisions still apply to recipients of the Unsupported Child's Benefit

The Social Security Act includes deprivation of income rules.³ These rules ensure that people do not change their financial position to put themselves at a financial disadvantage in order to qualify for assistance or assistance at a higher rate. Clauses 47, 48, and 64 would make changes to the deprivation of income rules as they relate to child support payments. These changes include that not applying for a formula-assessment of child support would not be considered deprivation of income. This aligns with changes the bill proposes to make to these obligations under section 9 of the Child Support Act 1991.

As introduced, these clauses could unintentionally also capture a person receiving an unsupported child's benefit (UCB). This would mean that the current deprivation of income rules would not apply to them if they apply for other financial assistance that is income tested. We recommend amending clauses 47 and 64 to make it clear that the deprivation of income rules continue to apply to UCB recipients as UCB is not being passed on through this bill. We recommend that this amendment be made in respect of both the Social Security Act and the Public and Community Housing Management Act.

New Zealand National Party differing view

National Party members of the committee believe that where possible parents should be financially responsible for their children and this obligation doesn't end when a

³ Deprivation occurs where a person (or their partner) gives away or sells financial resources for less than their value. Deprivation of income may include the gifting or selling of income-bearing assets.

relationship does. We strongly believe it is the responsibility of the parents to support their children as best they can, not taxpayers.

National Party members of the committee are concerned that the estimated cost to the government is \$354.27 million over the forecast period of 2021/2022 to 2025/2026, and that officials were unable to answer how many more liable parents would comply with child support obligations, and were also unable to provide an estimate of how many more people might go onto the sole parent benefit because of this legislation.

We are concerned that the bill extends greater assistance to liable parents and so the burden of paying child support falls to taxpayers. If the stated intention of the bill was to resolve a matter of fairness with child support being passed onto other beneficiary types, then National Party members of the committee believe child support should also be passed on for Unsupported Child's Benefit recipients. We believe that these caregivers should receive the child support contribution, as often caregivers are grandparents in lieu of the other parent.

Appendix

Committee process

The Child Support (Pass On) Acts Amendment Bill was referred to the committee on 28 March 2023.

We called for submissions on the bill with a closing date of 14 April 2023. We received and considered submissions from 13 interested groups and individuals. We heard oral evidence from 6 submitters at hearings in Wellington.

We received advice on the bill from the Ministry of Social Development and the Inland Revenue Department. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legislative drafting.

Committee membership

Angie Warren-Clark (Chairperson)

Karen Chhour

Dr Liz Craig

Dr Emily Henderson

Anahila Kanongata'a

Ricardo Menéndez March

Terisa Ngobi

Maureen Pugh

Hon Louise Upston

Harete Hipango participated in some of our consideration of this bill.

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Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Carmel Sepuloni

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Child Support (Pass On) Acts Amendment Act **2023**.

2 Commencement

This Act comes into force on **1 July 2023**.

Part 1 Amendments to child support legislation

Subpart 1—Amendments to Child Support Act 1991

Principal Act

- 3 Principal Act** 5
This Part amends the Child Support Act 1991.

Definitions

- 4 Section 2 amended (Interpretation)**
- (1) In section 2(1), repeal the definition of **COVID-19 New Zealanders Stranded Overseas Support Programme**. 10
- (2) In section 2(1), replace the definition of **social security benefit** with:
social security benefit means any benefit as defined in Schedule 2 of the Social Security Act 2018
- (3) In section 2(1), insert in their appropriate alphabetical order:
UCB beneficiary, in respect of a child, means a person who is in receipt of an unsupported child's benefit for the child 15
unsupported child's benefit means unsupported child's benefit under section 46 of the Social Security Act 2018

Liability to pay child support under formula assessment

- 5 Section 9 replaced** 20
Replace section 9 with:

- 9 UCB beneficiaries must apply for formula assessment**
- Person to whom section applies*
- (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— 25
- (a) is a UCB beneficiary; and
- (b) provides, or considers that the person provides, at least 35% of ongoing daily care to the child; and
- (c) is not already a receiving carer in respect of the child (but *see subsection (4)*). 30

	<i>Person must apply for formula assessment</i>	
(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 unless subsection (5) applies.	
	<i>When UCB beneficiary must make application for formula assessment</i>	5
(3)	A UCB beneficiary who is required under subsection (2) to apply for a formula assessment of child support in relation to a parent of the child must make the application—	
	(a) at the same time as an application for unsupported child’s benefit is made:	10
	(b) at a time other than when an application for unsupported child’s benefit is made, when notified by the Commissioner that an application for a formula assessment is required in relation to the qualifying child.	
	<i>If UCB beneficiary receives child support pursuant to order under Part 4 that relates to overseas order</i>	15
(4)	If a person who is or becomes a UCB beneficiary receives child support pursuant to an order under Part 4 that relates to an overseas order (as referred to in section 67(b)),—	
	(a) the person is deemed not to be a receiving carer for the purpose of this section; and	20
	(b) the person is deemed to have made, on the date on which the person becomes a UCB beneficiary, an election under section 70 that the order be one to which Part 4 does not apply; and	
	(c) if the person ceases to be a UCB beneficiary, or ceases to provide at least 35% of ongoing daily care to the child,—	25
	(i) any formula assessment applying at that time ceases to apply; and	
	(ii) the election under section 70 is deemed to be revoked (despite section 70(4)) on the following day.	
	<i>When UCB beneficiary not required to apply for formula assessment</i>	30
(5)	A UCB beneficiary is not required to apply for a formula assessment in relation to a parent of the child if either the Commissioner or the chief executive of the department for the time being responsible for the administration of the Social Security Act 2018 is satisfied that all or any of the following applies:	
	(a) there is insufficient evidence available to establish who in law that parent is:	35
	(b) there would be a risk of violence to a specified person if the UCB beneficiary were to do 1 or both of the following:	
	(i) make an application for a formula assessment of child support in relation to that parent:	

<ul style="list-style-type: none"> (ii) take steps to make an application for a formula assessment of child support in relation to that parent: (c) that parent died before the application for unsupported child’s benefit was made: (d) the child was conceived as a result of incest or sexual violation: (e) the UCB beneficiary cannot make an application for a formula assessment of child support in relation to that parent because of a compelling circumstance, other than a circumstance mentioned elsewhere in this subsection. 	<p>5</p> <p>10</p>
<p><i>Meanings in subsection (5)(b) of specified person and violence</i></p>	
<p>(6) In subsection (5)(b),—</p> <p>specified person, for a UCB beneficiary, means any of the following:</p> <ul style="list-style-type: none"> (a) the UCB beneficiary: (b) the UCB beneficiary’s spouse or partner: (c) the UCB beneficiary’s children: (d) the qualifying child: (e) a parent of the qualifying child: (f) a sibling of the qualifying child <p>violence has the same meaning as in section 9 of the Family Violence Act 2018.</p>	<p>10</p> <p>15</p> <p>20</p>
<p>6 Section 12 amended (Deemed application by beneficiary)</p>	
<ul style="list-style-type: none"> (1) In the heading to section 12, replace “beneficiary” with “UCB beneficiary”. (2) In section 12(1), replace “social security beneficiary” with “UCB beneficiary”. (3) In section 12(2), replace “beneficiary” with “UCB beneficiary”. 	<p>25</p>
<p>7 Section 27 amended (Election by receiving carer to end formula assessment)</p>	
<ul style="list-style-type: none"> (1) Replace section 27(4) with: (4) However, the election does not qualify for acceptance if a recognised carer of child C is, or is expected to be, on the day referred to in section 25(5)(a) or (b), a UCB beneficiary in respect of child C. (2) In section 27(9), replace “social security beneficiary of the kind referred to in subsection (4)(a) or (b)” with “UCB beneficiary in respect of child C”. 	<p>30</p>

*Amount of child support payable under formula assessment made by
Commissioner*

8 Section 35A amended (Living allowance)

In section 35A(2)(b), delete “special assistance under the COVID-19 New Zealanders Stranded Overseas Support Programme that corresponds to such a payment, or both,”. 5

Voluntary agreements

9 Section 50 amended (Exception where payee is social security beneficiary)

(1) In the heading to section 50, replace “social security beneficiary” with “UCB beneficiary”. 10

(2) In section 50(b), replace “a social security benefit” with “an unsupported child’s benefit for the qualifying child”.

Exemptions

10 Section 89B amended (Definitions for this Part)

In section 89B, repeal the definition of **social security benefit**. 15

Departure from formula assessment of child support initiated by Commissioner

11 Section 96Y amended (Election by receiving carer or by liable parent to become party or discontinue proceedings)

In section 96Y(2)(a) and (b), replace “social security beneficiary” with “UCB beneficiary”. 20

Jurisdiction of courts in relation to child support and domestic maintenance

12 Section 122 replaced (Social security beneficiary to be compellable witness against liable parent)

Replace section 122 with:

122 UCB beneficiary is compellable witness against liable parent 25

(1) This section applies, in a proceeding under this Act, to a person (**person A**) who is—

(a) a carer of a qualifying child; and

(b) in receipt of an unsupported child’s benefit at any time during a period to which the proceeding relates. 30

(2) Person A is a compellable witness—

(a) for the Commissioner against a person who, in relation to person A, is a liable parent; and

- (b) for a liable parent against the Commissioner.
- (3) This section applies despite any rule of law to the contrary.

Collection of financial support

13 Section 131 amended (Social security beneficiaries to pay financial support by automatic deduction) 5

- (1) In section 131, replace “benefit under the Social Security Act 2018, or Part 6 of the Veterans’ Support Act 2014, or the New Zealand Superannuation and Retirement Income Act 2001” with “social security benefit”.
- (2) In section 131(b), replace “benefit to which the person is or may become entitled under that Act” with “social security benefit to which the person is or may become entitled” 10

Payment of financial support

14 Sections 141 to 143 replaced

Replace sections 141 to 143 with:

141 Payment to receiving carers who are not UCB beneficiaries 15

- (1) This section applies to money received by the Commissioner if—
 - (a) the money is by way of child support in respect of a qualifying child; and
 - (b) the receiving carer of that child is not a UCB beneficiary for that child.
- (2) The money must be paid to the receiving carer in accordance with this Part. 20

142 Payment of formula assessment child support to receiving carers who are UCB beneficiaries

When section applies

- (1) This section applies only if—
 - (a) a person is the receiving carer of 1 or more children (the **child support child or children**); and 25
 - (b) the person is also a UCB beneficiary in respect of 1 or more children (the **UCB child or children**); and
 - (c) the child support child or children is or are either the same as, or different from, the UCB child or children; and 30
 - (d) the Commissioner receives money by way of child support in respect of the UCB child or children; and
 - (e) that money is paid by a liable parent or parents under 1 or more formula assessments; and

- (f) the Commissioner does not receive money in respect of the UCB child or children from any person under a voluntary agreement.
- Duty in respect of each child for whom an unsupported child's benefit is payable*
- (2) If this section applies, the Commissioner must, in respect of each child for whom an unsupported child's benefit is payable,— 5
- (a) pay to the receiving carer the amount of child support paid by a liable parent that is payable to the receiving carer by that liable parent in respect of the child for periods when the receiving carer is not a recipient of an unsupported child's benefit in respect of the child; and 10
- (b) aggregate all remaining payments of child support payable to the receiving carer in respect of each such child; and
- (c) deduct an amount equal to whichever is the lesser of the following amounts: 15
- (i) the net of tax amount of the unsupported child's benefit; or
- (ii) the aggregate of all payments of child support received by the Commissioner that are payable to the receiving carer in respect of that child (except for any amount the Commissioner is required to pay under **paragraph (a)**); and
- (d) pay any remaining child support in respect of that child to the receiving carer. 20
- Interaction with section 137 (order in which payments to be applied by Commissioner)*
- (3) This section does not limit the application of section 137 to the liable parent.
- 143 Payment of voluntary agreement child support to receiving carers who are UCB beneficiaries** 25
- When section applies*
- (1) This section applies only if—
- (a) a person is the receiving carer of 1 or more children (the **child support child or children**); and 30
- (b) the person is also a UCB beneficiary in respect of 1 or more children (the **UCB child or children**); and
- (c) the child support child or children is or are either the same as, or different from, the UCB child or children; and
- (d) the Commissioner receives money by way of child support in respect of the UCB child or children; and 35
- (e) any of that money is paid by a liable parent or parents under 1 or more voluntary agreements.

Duty in respect of each child for whom money is paid under a voluntary agreement

- (2) If this section applies, the Commissioner must, in respect of each child for whom money is paid under a voluntary agreement, pay to the receiving carer—
 - (a) the amount of child support paid by a liable parent that is payable to the receiving carer by that liable parent in respect of the child for periods when the receiving carer is not a recipient of an unsupported child’s benefit in respect of the child; and 5
 - (b) the amount by which the money paid under the voluntary agreement in respect of the child (except for any amount that the Commissioner is required to pay under **paragraph (a)**) exceeds the payment that would have been made under a formula assessment of child support. 10

Duty in respect of each child for whom an unsupported child’s benefit is payable

- (3) If this section applies, the Commissioner must also, in respect of each child for whom an unsupported child’s benefit is payable,— 15
 - (a) pay to the receiving carer the amount of child support paid by a liable parent that is payable to the receiving carer by that liable parent in respect of the child for periods when the receiving carer is not a recipient of an unsupported child’s benefit in respect of the child (except for any amount the Commissioner is required to pay under **subsection (2)**); and 20
 - (b) aggregate all remaining payments of child support payable to the receiving carer in respect of each such child; and
 - (c) deduct an amount equal to whichever is the lesser of the following amounts: 25
 - (i) the net of tax amount of the unsupported child’s benefit; or
 - (ii) the aggregate of all payments of child support received by the Commissioner that are payable to the receiving carer in respect of that child (except for any amount the Commissioner is required to pay under **subsection (2)** or under **paragraph (a)** of this subsection); and 30
 - (d) pay any remaining child support in respect of that child to the receiving carer.

Interaction with section 137 (order in which payments to be applied by Commissioner) 35

- (4) This section does not limit the application of section 137 to the liable parent.

15 Section 152B amended (Offsetting child support payments)

In section 152B(2), replace “social security beneficiary (as defined in section 2(1))” with “UCB beneficiary”. 40

*Enforcement provisions***16 Section 179A amended (Waiver of right to payment)**

- (1) In section 179A(1), delete “, or in receipt of any other social security benefit”.
- (2) In section 179A(5), delete “, or begins to receive any other social security benefit”.

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17 Section 180 amended (Payee may uplift financial support debt)

- (1) In section 180(2)(a), replace “social security beneficiary (as defined in section 2(1))” with “UCB beneficiary”.
- (2) In section 180(2)(b) and (c), replace “social security beneficiary (as so defined)” with “UCB beneficiary”.

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18 Section 180A amended (Commissioner may write off benefit component of child support debt if receiving carer was social security beneficiary and recovery would cause serious hardship or be inefficient use of Commissioner’s resources)

- (1) In the heading to section 180A, replace “social security beneficiary” with “UCB beneficiary”.
- (2) In section 180A(1)(a), replace “social security beneficiary (as defined in section 2(1))” with “UCB beneficiary”.
- (3) In section 180A(2), delete “social security benefit or”.

15

Application, transitional, and savings provisions

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19 Schedule 1 amended

In Schedule 1,—

- (a) insert the Part set out in **Part 1 of the Schedule** of this Act as the last Part; and
- (b) make all necessary consequential amendments.

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Subpart 2—Amendments to Child Support Rules 1992

20 Principal rules

This subpart amends the Child Support Rules 1992.

21 Rule 13 amended (Affidavit to accompany certain applications)

In rule 13(1), delete “(except an application for an urgent maintenance order under section 116 of the Act)”.

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22 Rule 19 revoked (Declaration of financial means)

Revoke rule 19.

23	Schedule 1 amended	
(1)	In Schedule 1, revoke forms CS 21 and CS 22.	
(2)	In Schedule 1, form CS 37, replace “rr 19(1), 38(2)(a)” with “r 38(2)(a)”.	
	Subpart 3—Amendments to Family Court Rules 2002	
24	Principal rules	5
	This subpart amends the Family Court Rules 2002.	
25	Rule 21 amended (Special rules relating to affidavits)	
	Revoke rule 21(c).	
26	Rule 258 amended (Affidavits in support to be filed to make certain applications on notice)	10
	In rule 258, delete “(except an application for an urgent maintenance order under section 116 of the Act)”.	
27	Rule 260 revoked (Affidavit of financial means and their sources to be filed to make application under section 116 of Act)	
	Revoke rule 260.	15
28	Schedule 3 amended	
(1)	In Schedule 3, revoke forms CS 21 and CS 22.	
(2)	In Schedule 3, form CS 28, replace “r 260” with “rr 139(3)(c), 266(1)(a)”.	
	Part 2	
	Amendments to other legislation	20
	Subpart 1—Amendments to Social Security Act 2018	
	<i>Principal Act</i>	
29	Principal Act	
	This subpart amends the Social Security Act 2018.	
	<i>Obligations</i>	25
30	Section 113 amended (Beneficiary must notify change of circumstances)	
(1)	Before section 113(1), insert:	
	<i>Obligation to notify without delay change of circumstances</i>	
(2)	Before section 113(2), insert:	
	<i>Examples of change of circumstances</i>	30

- (3) Before section 113(3), insert:

Meaning of change in beneficiary's relationship status

- (4) After section 113(3), insert:

Satisfying obligation for change that is receipt by beneficiary of information share child support payment

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- (4) Subsection (1) is satisfied for a change in a beneficiary's circumstances that is receipt by the beneficiary of an information share child support payment if—

- (a) MSD is notified of the payment under an approved information sharing agreement (as defined in section 138 of the Privacy Act 2020) between—

10

- (i) the Inland Revenue Department (as the department responsible for the administration of the Child Support Act 1991); and
 (ii) the responsible department (as the department responsible for the administration of provisions of this Act); and

- (b) MSD has in some way notified the beneficiary of the income charging of the payment under Schedule 3 (see the examples given in **subsection (5)**); and

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- (c) the beneficiary notifies MSD without delay of a change in the beneficiary's circumstances that is or may be all or any of the review grounds specified in **section 304A(1)(a) to (g)** for the purposes of **section 304(1A)**.

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How subsection (1) is satisfied for information share child support payment

- (4) Subsection (1) is satisfied for a change in a beneficiary's circumstances that is an information share child support payment made to a beneficiary if the payment is disclosed to MSD under a specified approved information sharing agreement.

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- (5) In this section,—

information share child support payment—

- (a) has the meaning given to it in Schedule 2; and therefore

- (b) excludes a general provisions child support payment (as that term is defined in Schedule 2)

30

specified approved information sharing agreement has the meaning given to it in Schedule 2.

Exception if person does not notify without delay change that is review ground

- (6) However, **subsection (4)** does not apply if—

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- (a) MSD has in some way notified the beneficiary of the income charging of the payment under Schedule 3 (see the examples given in **subsection (7)**); and

(b) the beneficiary does not notify MSD without delay of a change in the beneficiary’s circumstances that relates to the payment and that is or may be all or any of the review grounds specified in **section 304A(1)(a) to (g)**.

Examples of MSD notifying beneficiary of income charging of payment

(57) For the purposes of **subsection (4)(b)(6)(a)**, examples of MSD in some way notifying the beneficiary of the income charging under Schedule 3 of the payment include MSD notifying the beneficiary—

- (a) that information share child support payments are, or will be, charged as income of the beneficiary under Schedule 3; or
- (b) of a change in amounts or timing of information share child support payments; or
- (c) of a change in how information share child support payments are charged as income of the beneficiary under Schedule 3.

Review grounds include any additional grounds prescribed by regulations

(68) For the purposes of **subsection (4)(c)(6)(b)**, the review grounds specified in **section 304A(1)(a) to (g)** for the purposes of **section 304(1A)** include, without limitation, any 1 or more additional grounds prescribed, for the purposes of **section 304A(1)(g)**, by regulations made under **section 418(1)(ja)**.

Administration

31 Section 296 amended (What this Part does)

After section 296(d), insert:

(da) the use of automated electronic systems to make decisions, exercise powers, comply with obligations, and take related actions:

32 Section 304 amended (Review of entitlement and rate payable)

(1) Before section 304(1), insert:

Review under subpart

(2) Before section 304(2), insert:

Subpart applies to special assistance

(3) After section 304(1), insert:

Review under subpart of information share child support payments

(1A) MSD may review under this subpart whether a person’s information share child support payment is or was all or any of their weekly income under **Part 3A of Schedule 3**, but only on all or any of the review grounds specified in **section 304A(1)(a) to (g)** for the purposes of this subsection.

	<i>Review grounds include any additional grounds prescribed by regulations</i>	
(1B)	For the purposes of subsection (1A) , the review grounds specified in section 304A(1)(a) to (g) for the purposes of subsection (1A) include, without limitation, any 1 or more additional grounds prescribed, for the purposes of section 304A(1)(g) , by regulations made under section 418(1)(ja) .	5
(4)	Before section 304(3), insert:	
	<i>Review of, or appeal against, decision on review under subpart</i>	
33	New section 304A inserted (Grounds for review of whether person's information share child support payment is or was their weekly income)	
	After section 304, insert:	10
304A	Grounds for review of whether person's information share child support payment is or was their weekly income	
(1)	For the purposes of section 304(1A) , the specified grounds are that MSD is satisfied of all or any of the following:	
(a)	the person did not receive all or any of the payment before or on the deemed receipt (as defined in clause 15C of Schedule 3):	15
(b)	the person is or was unable to access all or any of the payment for reasons that are or include exceptional circumstances:	
(c)	MSD has charged under Part 3A of Schedule 3 an amount of weekly income that is not the correct amount for reasons that are or include all or any of the following:	20
(i)	the information share is incorrect due to an error by the Commissioner or an officer of the Department (as those terms are defined in the Tax Administration Act 1994):	
(ii)	the information share is correct but read incorrectly by an automated electronic system:	25
(iii)	the information share is correct but due to a person's error is inputted incorrectly into a system used by MSD:	
(d)	a person has been incorrectly identified, or not identified, as the proper recipient of the payment (whether that mis- or non-identification was by an automated electronic system or a person):	30
(e)	for reasons that are or include a disruption to an automated electronic system, information about the payment is not shared with MSD on the transaction date (as defined in clause 15B of Schedule 3), with the result that the payment is charged as weekly income under Part 3A of Schedule 3 after an affected benefit payment, or other assistance payment, has been made:	35
(f)	the person to whom the payment was made has died, and their benefit—	
(i)	is specified in section 326(1)(a) to (h); and	

<p>(ii) will end, or has ended, under section 326(2) or (3):</p> <p>(g) any 1 or more additional grounds prescribed, for the purposes of this paragraph, by regulations made under section 418(1)(ja).</p> <p>(2) In this section,—</p> <p>automated electronic system means an automated electronic system used under subpart 5A</p> <p>disruption, to an automated electronic system, includes, without limitation, a disruption to disclosure to MSD of all or any information used in or by the system.</p>	<p>5</p>
<p>34 New subpart 5A of Part 6 inserted</p> <p>After subpart 5 of Part 6, insert:</p> <p style="text-align: center;">Subpart 5A—Use of automated electronic systems in respect of information share child support payments</p> <p>363A Use of automated electronic systems to make decisions, exercise powers, comply with obligations, and take related actions</p> <p><i>MSD may approve use</i></p> <p>(1) MSD may approve the use of an automated electronic system by a specified person to make any decision, exercise any power, comply with any obligation, or take any other related action under any specified provision.</p> <p><i>Meanings of specified person and specified provision</i></p> <p>(2) in this subpart,—</p> <p>specified person, means any of the following performing or exercising a duty, function, or power under a specified provision:</p> <p>(a) the chief executive of the responsible department:</p> <p>(b) a public service employee, or other person, acting under a delegation (direct or indirect) from that chief executive</p> <p>specified provision has the same meaning as in clause 11 of Schedule 3.</p> <p><i>Specified provision must be about effect of child support income</i></p> <p>(3) The specified provision must be about how an information share child support payment is or affects any person’s assets, income, or other means of any kind (however described), for the purposes of, or for any purpose related to,—</p> <p>(a) a benefit; or</p> <p>(b) any <u>other</u> assistance under this Act.</p> <p><i>Requirements for approval</i></p> <p>(4) MSD may approve the use of an automated electronic system only if—</p> <p>(a) the system is under the responsible department’s control; and</p>	<p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p>

- (b) MSD is satisfied that the system has the capacity to make the decision, exercise the power, comply with the obligation, or take the related action with reasonable reliability; and
- (c) MSD is satisfied that the use of the system is consistent with the approved standard for MSD's use of automated electronic systems (*see subsections (5) and (6)*); and 5
- (d) 1 or more persons are always available, as an alternative, to make the decision, exercise the power, comply with the obligation, or take the related action.
- Approved standard for MSD's use of automated electronic systems* 10
- (5) MSD must ensure that there is in force at all times after the commencement of this section an approved standard for MSD's use of automated electronic systems.
- (6) The standard, and any amendment, revocation, or replacement of the standard, must be— 15
- (a) approved by MSD, in consultation with the Privacy Commissioner appointed under the Privacy Act 2020; and
- (b) reviewed at least once every 3 years; and
- (c) published in the *Gazette*; and
- (d) published on an Internet site that— 20
- (i) is maintained by, or on behalf of, the responsible department; and
- (ii) is publicly available free of charge.
- Effect of use of approved system*
- (7) A decision that is made, a power that is exercised, an obligation that is complied with, or a related action that is taken using an automated electronic system under this section must be treated for all purposes as if it were made, exercised, complied with, or taken (as the case may be) by a specified person authorised or required by the specified provision to make the decision, exercise the power, comply with the obligation, or take the related action. 25
- Compare: 2018 No 4 ss 295, 296 30
- 363B Publication of details of arrangements for use of automated electronic systems**
- (1) MSD must ensure that details of any arrangements to use an automated electronic system, and any variation or revocation of the arrangements, are published as soon as practicable— 35
- (a) in the *Gazette*; and
- (b) on an Internet site that—
- (i) is maintained by, or on behalf of, the responsible department; and

(ii)	is publicly available free of charge.	
(2)	Those details must identify—	
(a)	the relevant decision, power, obligation, or related action to be made, exercised, complied with, or taken under the specified provision; and	
(b)	the automated electronic system that is to make, exercise, comply with, or take that decision, power, obligation, or related action.	5
(3)	The use of an automated electronic system is not made invalid by reason only of a failure to publish details of it or any variation to it as soon as practicable in accordance with subsection (1) .	
	Compare: 2018 No 4 s 297	10
363C	Variation and substitution of decisions made by automated electronic systems	
(1)	This section applies to a decision made by an automated electronic system (the relevant decision).	
(2)	A specified person may—	15
(a)	vary, or add to, the terms or conditions of the relevant decision; or	
(b)	substitute a decision for the relevant decision if the specified person is satisfied that the new decision—	
(i)	could have been made under the same specified provision as the relevant decision; and	20
(ii)	is more favourable to the affected person.	
(3)	A specified person is not obliged to exercise any power in subsection (2) in respect of the relevant decision.	
	Compare: 2018 No 4 s 298	
363D	Appeals and reviews unaffected	25
	<i>General rule</i>	
(1)	A person has the same rights of appeal or right to apply for administrative or judicial review (if any) in relation to a decision made, power exercised, obligation complied with, or other action taken by an automated electronic system as the person would have had if the decision, power, obligation, or other action had been made, exercised, complied with, or taken by a specified person.	30
	<i>Review under subpart 3 of Part 6 of information share child support payments</i>	
(2)	However, this section is subject to sections 304(1A) and 304A (under which MSD may review under subpart 3 of Part 6 whether a person’s information share child support payment is or was all or any of their weekly income under Part 3A of Schedule 3 , but only on all or any of the review grounds specified in section 304A(1)(a) to (g) for the purposes of section 304(1A)).	35

Review grounds include any additional grounds prescribed by regulations

- (3) For the purposes of **subsection (2)**, the review grounds specified in **section 304A(1)(a) to (g)** for the purposes of ~~subsection (2)~~ include, without limitation, any 1 or more additional grounds prescribed, ~~for the purposes of section 304A(1)(g)~~, by regulations made under **section 418(1)(ja)**.

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Compare: 2018 No 4 s 299

Other provisions

35 Section 418 amended (Regulations: general)

- (1) After the heading above section 418(1)(k), insert:
- (ja) **section 304A(1)(g)** (additional grounds for review of whether person's information share child support payment is or was all or any of their weekly income): 10
- (2) After the heading above section 418(1)(o), insert:
- (na) **paragraph (f)(j)** of the definition of ~~non-information share general provisions~~ child support payment in Schedule 2 (additional kinds of payments that are ~~non-information share general provisions~~ child support payments): 15

Transitional, savings, and related provisions

36 Schedule 1 amended

- In Schedule 1,— 20
- (a) insert the Part set out in **Part 2 the Schedule** of this Act as the last Part; and
- (b) make all necessary consequential amendments.

Dictionary

37 Schedule 2 amended 25

- (1) In Schedule 2, insert in their appropriate alphabetical order:
- automated electronic system** is defined in **section 304A** for the purposes of that section
- child support** has the meaning given to it in section 2(1) of the Child Support Act 1991 30
- child support debt recovery by reduced further payments of child support**, for a person who owes an amount of child support as a debt due to the Crown, means any recovery of the amount of the debt due to the Crown—
- (a) under the Child Support Act 1991; and
- (b) by reduced further payments of child support that the person is entitled to receive (for example, under section 151(3) or 151AA(8) of that Act) 35

child support deduction, for a receiving carer who is a UCB beneficiary, means any money received by the Commissioner of Inland Revenue by way of child support that is not required to be paid to the receiving carer under the Child Support Act 1991 because that money is a deduction made under **section 142(2)(c) or 143(3)(c)** of that Act

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child support excess payment, for a receiving carer who is a UCB beneficiary, means a payment to that receiving carer that is—

- (a) money received by the Commissioner of Inland Revenue by way of child support and that is required to be paid to the receiving carer under **section 142(2)(d) or 143(3)(d)** of the Child Support Act 1991; or
- (b) a mixed child support payment

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child support year has the same meaning as in section 2(1) of the Child Support Act 1991

Commissioner of Inland Revenue means the Commissioner of Inland Revenue as defined in section 3(1) of the Tax Administration Act 1994

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deemed receipt, of an information share child support payment, has the meaning given to it in **clause 15C of Schedule 3**

disruption, to an automated electronic system, is defined in **section 304A** for the purposes of that section

foreign child support payment, for a person, and in relation to a country or territory outside New Zealand, means a payment that is—

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- (a) made to the person; and
- (b) required under the laws of the country or territory; and
- (c) of the same nature as child support; and
- (d) the subject of an agreement (as defined in section 214 of the Child Support Act 1991) made between the government of the country or territory and the Government of New Zealand

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general provisions child support payment, for the purposes of this Act (for example, in **clause 7A(6)** of Schedule 3), and for a person, means a payment that is money received by the person that is child support and that is all or any of the following:

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- (a) paid to the person in a manner other than by direct credit to a bank account nominated by the person under section 148 of the Child Support Act 1991:
- (b) paid to the person when, and only to the extent that, the benefit, or other assistance under this Act, that the person is receiving is—
 - (i) payable before the time of MSD's decision to grant the benefit or other assistance under this Act; and
 - (ii) subject to testing based on any person's assets, income, or other means of any kind (however described):

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- (c) a child support excess payment (which includes, without limitation, a mixed child support payment):
- (d) a payment made under **section 143(2)(b) or (3)(d)** of the Child Support Act 1991:
- (e) a payment made under an order made by the Family Court under section 109 of the Child Support Act 1991 (orders for provision of child support in form of lump sum): 5
- (f) a foreign child support payment:
- (g) a payment made to a receiving carer who is a person being paid, while that person is absent from New Zealand, a benefit that is any of the following: 10
- (i) New Zealand superannuation being paid overseas under section 26 of the New Zealand Superannuation and Retirement Income Act 2001 (see section 29(4A) of that Act):
- (ii) New Zealand superannuation payable to a person resident in a specified Pacific country under section 31 of the New Zealand Superannuation and Retirement Income Act 2001 (see section 35(2) of that Act): 15
- (iii) a veteran's pension being paid overseas under section 182 of the Veterans' Support Act 2014 (see section 189(3) of that Act):
- (iv) a veteran's pension payable to a person resident in a specified Pacific country under section 191 of the Veterans' Support Act 2014 (see section 195(2) of that Act): 20
- (v) a benefit payable under any reciprocity agreement with another country adopted by an order made under section 380:
- (h) a payment after **30 June 2023** of child support in respect of a period (whether all, or any part, of a child support year) before **1 July 2023**: 25
- (i) a payment that is not disclosed to MSD under a specified approved information sharing agreement (as that term is defined in this schedule):
- (j) a child support payment of any other kind that is specified for the purposes of this paragraph by regulations made under **section 418(1)(na)**
- information share child support payment**, for a person, means money received by the person that is child support that is— 30
- (a) paid to the person by direct credit to a bank account nominated by the person under section 148 of the Child Support Act 1991; and
- (b) notified to MSD under an approved information sharing agreement (as defined in section 138 of the Privacy Act 2020) between— 35
- (i) the Inland Revenue Department (as the department responsible for the administration of the Child Support Act 1991); and
- (ii) the responsible department (as the department responsible for the administration of provisions of this Act); and

- (e) ~~not a non-information share child support payment~~
information share child support payment, for the purposes of this Act (for example, in **clause 7A(5)** of Schedule 3), and for a person, means a payment that is—
- (a) ~~money received by the person that is child support; and~~ 5
 (b) ~~not a general provisions child support payment (as that term is defined in this schedule)~~
- liable parent** has the same meaning as in section 2(1) of the Child Support Act 1991
mixed child support payment, made to a receiving carer who is a UCB beneficiary, means money received by the receiving carer that is child support if— 10
- (a) the receiving carer is—
 (i) a UCB beneficiary for a child or children (the **UCB child or children**); and
 (ii) caring for 1 or more children for each of whom an unsupported child's benefit is not payable (the **non-UCB child or children**); and 15
- (b) the same liable parent is liable to pay the receiving carer child support for both of the following:
 (i) the UCB child or children;
 (ii) the non-UCB child or children; and
- (c) the child support is from that liable parent, and may be child support for 1 or both of the following: 20
 (i) the UCB child or children;
 (ii) the non-UCB child or children
- ~~**non-information share child support payment**, for a person, means money received by the person that is child support that is—~~ 25
- (a) ~~a child support excess payment (which includes, without limitation, a mixed child support payment); or~~
 (b) ~~a payment made under an order made by the Family Court under section 109 of the Child Support Act 1991 (orders for provision of child support in form of lump sum); or~~ 30
 (c) ~~a foreign child support payment; or~~
 (d) ~~a payment made to a receiving carer who is a person being paid, while that person is absent from New Zealand, a benefit that is any of the following:~~
 (i) ~~New Zealand superannuation being paid overseas under section 26 of the New Zealand Superannuation and Retirement Income Act 2001 (see section 29(4A) of that Act);~~ 35

- (ii) ~~New Zealand superannuation payable to a person resident in a specified Pacific country under section 31 of the New Zealand Superannuation and Retirement Income Act 2001 (see section 35(2) of that Act):~~
- (iii) ~~a veteran's pension being paid overseas under section 182 of the Veterans' Support Act 2014 (see section 189(3) of that Act):~~ 5
- (iv) ~~a veteran's pension payable to a person resident in a specified Pacific country under section 191 of the Veterans' Support Act 2014 (see section 195(2) of that Act):~~
- (v) ~~a benefit payable under any reciprocity agreement with another country adopted by an order made under section 380; or~~ 10
- (e) ~~a payment after **30 June 2023** of child support in respect of a period (whether all, or any part, of a child support year) before **1 July 2023**; or~~
- (f) ~~a child support payment of any other kind that is specified for the purposes of this paragraph by regulations made under **section 418(1)(na)**~~
- offset child support payment**, for a person, means an amount of child support that another person is liable to pay to the person, but that is not paid, or required to be paid, to the person because— 15
- (a) the amount is offset under section 152B of the Child Support Act 1991; and
- (b) the offsetting of the amount has not been reversed
- receiving carer** has the same meaning as in section 2(1) of the Child Support Act 1991 20
- specified approved information sharing agreement**, for the purposes of **section 113(4)** and of the definitions in this schedule of information share child support payment and general provisions child support payment, means an approved information sharing agreement (as defined in section 138 of the Privacy Act 2020) between— 25
- (a) the Inland Revenue Department (as the department responsible for the administration of the Child Support Act 1991); and
- (b) the responsible department (as the department responsible for the administration of provisions of this Act)
- specified person** is defined in **section 363A(2)** for the purposes of **subpart 5A of Part 6** 30
- UCB beneficiary** has the same meaning as in section 2(1) of the Child Support Act 1991
- (2) In Schedule 2, definition of **specified provision**, replace paragraph (b) with:
- (b) in relation to use of automated electronic systems to make decisions, exercise powers, comply with obligations, and take related actions, is defined in **section 363A(2)** for the purposes of **subpart 5A of Part 6**; and 35
- (c) in relation to a reference to income for a period,—

- (i) is defined in clause 11 of Schedule 3 for the purposes of clauses 12 to 14 of Schedule 3; and
- (ii) is defined in **clause 15B of Schedule 3** for the purposes of **Part 3A of Schedule 3**

Income and liabilities

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38 Schedule 3, clause 1 amended (What this schedule does)

In Schedule 3, replace clause 1(b) and (c) with:

- (b) what, for the purposes of this Act, is income (including an overview of how child support may be income for the purposes of this Act):
- (c) general provisions on how income is calculated:
- (ca) special provisions on how weekly income is calculated if that income is information share child support payments:

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39 Schedule 3, new clause 7A inserted (Overview of how child support may be income)

In Schedule 3, after clause 7, insert:

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7A Overview of how child support may be income

Interests acquired

- (1) Under **clause 8(m)**, child support that is an interest acquired by a person (rather than money received by (a payment made to) a person) is not income of the person. Examples are—
 - (a) an interest acquired that is an offset child support payment; or
 - (b) an interest acquired by way of any child support debt recovery by reduced further payments of child support.

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Deductions

- (2) Under **clause 8(n)**, child support that is a child support deduction for a receiving carer who is a UCB beneficiary is not income of that person.

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Money received (payments)

- (3) Child support that is money received by a person is income of the person for the purposes of this Act unless it is—

Court-ordered lump sums MSD determines are capital are not income

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- (a) a payment that is ordered by the Family Court under section 109 of the Child Support Act 1991 (orders for provision of child support in form of lump sum) and that MSD determines, under clause 3(b) of this schedule, is an interest in capital received or acquired by the person; or

- Child support excess payments are not income*
- (b) a child support excess payment (which includes, without limitation, a mixed child support payment) that, under **clause 8(na)**, is not income of the person; or
- Payments covered by income exemption regulations are not income* 5
- (c) a payment that, under clause 9 and income exemption regulations made under section 422, is not income of the person.
- (4) A child support payment is 1 of the following (as defined in Schedule 2)—
- (a) an information share child support payment; or
- (b) a ~~non-information share~~ general provisions child support payment. 10
- How information share child support payments are charged as income*
- (5) An information share child support payment that is income is subject to—
- (a) general annual income provisions in Part 3 of this schedule (*see* clauses 12 and 14 (how annual income is calculated)); and
- (b) special weekly income provisions in **Part 3A** of this schedule. 15
- How non-information share general provisions child support payments are charged as income*
- (6) A ~~non-information share~~ general provisions child support payment that is income is subject to—
- (a) general annual income provisions in Part 3 of this schedule (*see* clauses 12 and 14 (how annual income is calculated)); and 20
- (b) general weekly income provisions in Part 3 of this schedule (*see* clauses 13 and 14 (how weekly income is calculated)).
- Special provisions about cash assets or income for particular purposes*
- (7) This overview is about income for the purposes of the Act, and so does not affect special provisions about cash assets or income for particular purposes, for example,— 25
- (a) accommodation supplement (*see* regulations made under section 423):
- (b) childcare assistance (*see* regulations made under section 424):
- (c) temporary additional support (*see* regulations made under section 428): 30
- (d) a benefit’s stand-down period (*see* regulations made under section 440).
- 40 Schedule 3, clause 8 amended (Income excludes specified benefits, etc)**
- (1) In Schedule 3, replace the heading to clause 8 with “**Income excludes specified benefits, payments, interests acquired, etc**”.
- (2) In Schedule 3, clause 8, before “payments:” insert “amounts or”. 35
- (3) In Schedule 3, replace clause 8(m) and (n) with:
- (m) child support that is an interest acquired by the person, for example,—

- (i) an interest acquired that is an offset child support payment; or
- (ii) an interest acquired by way of child support debt recovery by reduced further payments of child support:
- (n) a child support deduction for a receiving carer who is a UCB beneficiary: 5
- (na) a child support excess payment (which includes, without limitation, a mixed child support payment):

41 Schedule 3, Part 3 heading amended

In Schedule 3, in the Part 3 heading, replace “**Calculation**” with “**General provisions on calculation**”. 10

General provisions on calculation of income

42 Schedule 3, clause 11 amended (Interpretation)

In Schedule 3, clause 11, definition of **specified provision**, after “all or a portion of”, insert “legislation in or made under”.

43 Schedule 3, clause 12 amended (How annual income calculated) 15

(1) In Schedule 3, replace the heading to clause 12 with “**How annual income is calculated**”.

(2) In Schedule 3, after clause 12(2), insert:

(3) The income received by the person for the 52 weeks specified in subclause (2) is or includes any information share child support payment that is charged as weekly income of the person under **Part 3A** of this schedule for all or any of those weeks. 20

44 Schedule 3, clause 13 amended (How weekly income calculated)

(1) In Schedule 3, replace the heading to clause 13 with “**How weekly income is calculated: general**”. 25

(2) In Schedule 3, after clause 13(3), insert:

(4) Nothing in this clause applies to any information share child support payment (*see Part 3A* of this schedule).

45 Schedule 3, clause 15 amended (Rules on how MSD determines income of people engaged in business or trade) 30

In Schedule 3, after clause 15(1), insert:

(1A) However, neither subclause (1), nor rules made under subclause (1), apply to any information share child support payment (*see Part 3A* of this schedule).

*Special provisions on calculation of weekly income that is
information share child support payment*

46 New Part 3A of Schedule 3 inserted

In Schedule 3, after clause 15, insert:

Part 3A	5
Special provisions on calculation of weekly income that is information share child support payment	
<i>How payment is charged as weekly income</i>	
15A How payment is charged as weekly income	
<i>What this Part does</i>	10
(1) This Part sets out how a person’s information share child support payment is all or any of their weekly income—	
(a) for the rate of benefit; or	
(b) for a specified provision (as defined in clause 15B).	
<i>Key steps in charging payment as weekly income</i>	15
(2) The key steps in charging the payment as weekly income are as follows:	
(a) the payment is taken to be received at deemed receipt:	
(b) deemed receipt is used to identify when income charging starts and ends:	
(c) the payment amount is divided by the number of weeks the payment is charged to produce equal amounts of weekly income for each of those weeks.	20
<i>Exceptions</i>	
(3) Under the exception in clause 15G (terminal benefit), which applies when the person has died, and their benefit will end, or has ended, under section 326(2) or (3), the payment is not charged as the person’s weekly income.	25
(4) Under the exception in clause 15H (transfer to new benefit paid in different instalments), MSD may charge the payment amount—	
(a) as income for other weeks; and	
(b) as equal or unequal amounts of weekly income for each of those other weeks.	30
15AB Effect of non-payment of benefit or other assistance	
<i>Part applies even if benefit or other assistance not payable</i>	
(1) <u>This Part applies to a person and an income-charging period even if the person’s benefit or other assistance under this Act is not payable at all or any of the following times:</u>	35

- (a) at or after the time of disclosure to MSD of a payment that could be charged as income in the period:
- (b) at the start or end of, or at any other time or times in, the period.
- Examples of benefit or other assistance not payable**
- The person's benefit or other assistance under this Act— 5
- is not payable at the start of the period; but
 - is payable again later in the period.
- The person's benefit or other assistance under this Act—
- is payable at the start of the period; but
 - is not payable, then is payable again, later in the period. 10
- (2) **Subclause (1)** applies whether or not the person's benefit or other assistance under this Act changes at the start or end of, or at any other time or times in, the period.
- (3) But **subclause (1)(a)** does not apply (despite **subclause (4)**) to a person's benefit or other assistance under this Act that is not payable because it has been cancelled. 15
- Meaning of not payable*
- (4) For the purposes of **subclause (1)**, a person's benefit or other assistance under this Act is not payable (subject to **subclause (3)**) if all or any of the following apply: 20
- (a) the benefit or other assistance under this Act is, in connection with a review under section 304 or otherwise, suspended, or otherwise not payable, in connection with decisions MSD has made, or is to make, about whether the person is, or remains, entitled to—
- (i) the benefit or other assistance under this Act; or 25
 - (ii) the rate of benefit or other assistance under this Act that was paid to the person:
- (b) the person is subject to legislation in or made under this Act that provides for the suspension, or other non-payment, in certain circumstances, of that person's benefit or other assistance under this Act. 30
- Legislation providing for suspension or other non-payment*
- (5) The legislation mentioned in **subclause (4)(b)** includes, without limitation,—
- (a) section 213 (immediate suspension of benefit at request of New Zealand Police);
 - (b) section 219 (general rule: benefit not payable while beneficiary absent from New Zealand); 35
 - (c) section 237 (sanction for second failure: suspension of main benefit):

(d)	<u>section 270 (sanction for first or second failure: suspension of in-hand allowance and incentive payments):</u>	
(e)	<u>section 280 (sanction for first or second failure: suspension of in-hand allowance and incentive payments):</u>	
(f)	<u>sections 331 to 336 (expiry and regrant of specified benefits):</u>	5
(g)	<u>regulations made under section 436 (regulations: factors affecting benefits: absence from New Zealand):</u>	
(h)	<u>regulations made under section 441(1) (regulations: expiry and regrant of benefits).</u>	
	<i>Definitions</i>	10
15B	Interpretation	
	In this Part,—	
	business day , for an information share child support payment, means a day of the week other than—	
(a)	a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign’s birthday, Te Rā Aro ki a Matariki/Matariki Observance Day, and Labour Day; and	15
(b)	if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and	
(c)	Christmas Day, Boxing Day, New Year’s Day, and 2 January; and	20
(d)	if Christmas Day or 1 January falls on a Friday, the following Monday; and	
(e)	if Christmas Day or 1 January falls on a Saturday or a Sunday, the following Monday and Tuesday	
	expected date of the next in-cycle payment , for an in-cycle payment made on the second business day after the 19th day of a month, means the third business day after the 19th day of the next month	25
	in-cycle payment means an information share child support payment that is made—	
(a)	by the Commissioner of Inland Revenue to the receiving carer; and	30
(b)	on the second business day after the 19th day of a month	
	out-of-cycle payment means an information share child support payment that is not an in-cycle payment	
	specified provision has the same meaning as in clause 11 of this schedule	
	standard income-charging period means,—	35
(a)	if the relevant benefit or other assistance is paid in instalments of 1 week’s benefit or other assistance, a period that—	

- (i) starts on a Monday; and
- (ii) ends at the close of the first Sunday after that Monday; and
- (b) if the relevant benefit or other assistance is paid in instalments of 2 weeks' benefit or other assistance, a period that—
 - (i) starts on a Wednesday; and
 - (ii) ends at the close of the second Tuesday after that Wednesday

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transaction date, for an information share child support payment to a person, means the date of the business day on which a bank is to make the payment to the person by direct credit to a bank account nominated by the person under section 148 of the Child Support Act 1991, as the date of that business day is—

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- (a) stated in the Commissioner of Inland Revenue's instructions to the bank; and
- (b) ~~notified~~disclosed to MSD under the specified approved information sharing agreement.

Receipt

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15C Deemed receipt: general rule

In this Part, the **deemed receipt** of a person's information share child support payment is,—

- (a) at the start of the first business day after the transaction date, if MSD makes no determination under **clause 15D**; or
- (b) if MSD makes a determination under **clause 15D**, at the start of the date determined under that clause.

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15D Deemed receipt: exception

(1) MSD may determine that a person's information share child support payment is, for the purposes of this Part, taken to be received—

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- (a) not at the start of the first business day after the transaction date (under the general rule in **clause 15C(a)**); but instead
- (b) at the start of a later date.

(2) MSD must consider the day on which the person actually received the payment, and any advantage to the person of the general rule in **clause 15C(a)** not applying to the person, if, and when, MSD decides—

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- (a) whether to make a determination under this clause; and
- (b) the terms of a determination made under this clause.

*Payment charged as income: general rules***15E When income charging starts: general rule***In-cycle payment or out-of-cycle payment*

For a person's in-cycle payment or out-of-cycle payment, income charging starts as set out in item 1 or 2 of the following table:

5

Item	If the relevant benefit or other assistance is paid ...	income charging starts ...
1	in instalments of 1 week's benefit or other assistance	at the start of a standard income-charging period, if deemed receipt falls in that period
2	in instalments of 2 weeks' benefit or other assistance	at the start of a standard income-charging period, if deemed receipt falls in week 1 of that period <i>or</i> at the start of the next standard income-charging period, if deemed receipt falls in week 2 of a standard income-charging period

15F When income charging ends: general rule*In-cycle payment*

(1) For a person's in-cycle payment, income charging ends as set out in item 1 or 2 of the following table:

Item	If the relevant benefit or other assistance is paid ...	income charging ends ...
1	in instalments of 1 week's benefit or other assistance	at the end of the standard income-charging period immediately before the expected date of the next in-cycle payment
2	in instalments of 2 weeks' benefit or other assistance	at the end of the 4 weeks that start on the day on which the payment starts to be charged as the person's income

Out-of-cycle payment

(2) For a person's out-of-cycle payment, income charging ends as set out in item 1 or 2 of the following table:

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Item	If the relevant benefit or other assistance is paid ...	income charging ends ...
1	in instalments of 1 week's benefit or other assistance	at the end of the first Sunday before the day that— (a) is in the month after the month of deemed receipt; and (b) corresponds to the day of deemed receipt <i>or</i> at the end of the 1st day of the second month after the month of deemed receipt, if the month after the month of deemed receipt contains no day that corresponds to the day of deemed receipt

Item	If the relevant benefit or other assistance is paid ...	income charging ends ...	
2	in instalments of 2 weeks' benefit or other assistance	at the end of the 4 weeks that start on the day on which the payment starts to be charged as the person's income	
<i>Exceptions</i>			
15G Terminal benefit			
<i>When clause applies to payment</i>			
(1)	This clause applies to the person's information share child support payment (whether an in-cycle payment or an out-of-cycle payment) if—		5
(a)	the person has died, and their benefit—		
(i)	is specified in any of paragraphs (a) to (h) of section 326(1); and		
(ii)	will end, or has ended, under section 326(2) or (3); and		
(b)	the payment's deemed receipt is after the person's death.		
<i>Payment is not charged as weekly income</i>			
(2)	The payment is not charged as the person's weekly income.		10
<i>Relationship with clauses 15E and 15F</i>			
(3)	This clause overrides clauses 15E and 15F .		
15H Transfer to new benefit paid in different instalments			
<i>Transfer from weekly-instalment benefit to fortnightly-instalment benefit</i>			
(1)	This clause applies to a person who transfers—		15
(a)	from a benefit or other assistance that is payable in instalments of 1 week's benefit or other assistance; and		
(b)	to a benefit or other assistance that is payable in instalments of 2 weeks' benefit or other assistance.		20
<i>Transfer from fortnightly-instalment benefit to weekly-instalment benefit</i>			
(2)	This clause also applies to a person who transfers—		
(a)	from a benefit or other assistance that is payable in instalments of 2 weeks' benefit or other assistance; and		
(b)	to a benefit or other assistance that is payable in instalments of 1 week's benefit or other assistance.		25
<i>MSD may determine that payment is charged as income for other weeks</i>			
(3)	MSD may determine that the person's information share child support payment is charged as the person's weekly income for a period that—		
(a)	MSD identifies; and		30

- (b) is after the deemed receipt; and
 - (c) is 3 or more weeks, but not more than 6 weeks; and
 - (d) does not start or end as required by **clauses 15E and 15F**.
- (4) In making a determination under this clause, MSD may charge the payment amount as equal or unequal amounts of weekly income. 5
- Mandatory relevant consideration*
- (5) MSD must consider how MSD can best charge the payment as weekly income reasonably and conveniently if, and when, MSD decides—
- (a) whether to make a determination under this clause; and
 - (b) the terms of a determination made under this clause. 10
- Relationship with **clauses 15E and 15F***
- (6) This clause overrides **clauses 15E and 15F**.

Deprivation of income or property

- 47 Schedule 3, clause 16 amended (Effect of deprivation of income or property) 15**
- In Schedule 3, after clause 16(1), insert:
- (1A) For the purposes of this clause and of rules under clause 17, deprivation of income, property, or both, by a person who is an applicant for a benefit, or the spouse or partner of that applicant, excludes that person doing all or any of—
- (a) not applying for a formula assessment of child support payable in respect of a qualifying child under the Child Support Act 1991: 20
 - (b) electing to end a formula assessment of child support payable in respect of a qualifying child under that Act:
 - (c) choosing not to enter into a voluntary agreement for child support in respect of a qualifying child under that Act (whether or not that voluntary agreement— 25
 - (i) is a voluntary agreement that, under section 48 of that Act, qualifies for acceptance by the Commissioner of Inland Revenue; and so
 - (ii) is a qualifying voluntary agreement (as defined in section 2(1) of that Act): 30
 - (d) making under that Act an election to terminate liability under a qualifying voluntary agreement that, under section 48 of that Act, has been accepted by the Commissioner of Inland Revenue:
 - (e) not making, or making, any other arrangement (for example, one in respect of a qualifying child and that is not a qualifying voluntary agreement (as those terms are defined in section 2(1) of that Act)) that does or 35

may affect whether or what child support is payable in respect of a qualifying child under that Act.

(1B) **Subclause (1A)** does not apply to, and does not limit the application of **section 9** (UCB beneficiaries must apply for formula assessment) of the Child Support Act 1991 to,—

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- (a) an applicant for an unsupported child’s benefit; or
- (b) the spouse or partner of that applicant; or
- (c) a UCB beneficiary; or
- (d) the spouse or partner of that UCB beneficiary.

48 Schedule 3, clause 17 amended (Rules on how MSD determines deprivation of income or property)

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In Schedule 3, after clause 17(1), insert:

(1A) Rules under this clause are subject to **clause 16(1A)** (under which deprivation of income, property, or both, excludes specified conduct by a person who is an applicant for a benefit, or the spouse or partner of that applicant).

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*Rates of benefits: abatement rates and income limits
for youth payment and young parent payment*

49 Schedule 4, Part 6 amended

(1) In Schedule 4, Part 6, clauses 1, 2, and 3, replace “clause 11” with “clauses 11 and **11A**”.

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(2) In Schedule 4, Part 6, clauses 4 and 5(a) and (b), replace “clause 12” with “clauses 12 and **12A**”.

(3) In Schedule 4, Part 6, replace clauses 11 to 13 with:

11 The applicable rate of youth payment or young parent payment in clause 1, 2, or 3 must be reduced by \$1 for every \$1 of the young person’s weekly income (excluding any 1 or more information share child support payments) that exceeds \$258.08, but no amount of youth payment or young parent payment or incentive payment is payable if the young person’s weekly income (excluding any 1 or more information share child support payments) exceeds \$308.08.

11A If, after complying with **clause 11**, an amount of youth payment or young parent payment or incentive payment is payable, the applicable rate of youth payment or young parent payment in clause 1, 2, or 3 must also be reduced by \$1 for every \$1 of any of the young person’s relevant weekly income (as defined in clause 11B).

11B In **clause 11A**, the **young person’s relevant weekly income** means their weekly income—

- that is 1 or more information share child support payments; and
- that exceeds \$258.08 of their weekly income that is 1 or both of—
 - any weekly income (excluding any 1 or more information share child support payments);
 - any 1 or more information share child support payments.

12 The applicable rate of youth payment or young parent payment in clause 4 or 5 must be reduced by 50 cents for every \$1 of the combined weekly income of the young person and

	the young person's spouse or partner (excluding any 1 or more information share child support payments) that exceeds \$258.08, but no amount of youth payment or young parent payment or incentive payment is payable if that combined weekly income (excluding any 1 or more information share child support payments) exceeds \$358.08.
12A	If, after complying with clause 12 , an amount of youth payment or young parent payment or incentive payment is payable, the applicable rate of youth payment or young parent payment in clause 4 or 5 must also be reduced— <u>by 50 cents for every \$1 of the relevant combined weekly income of the young person and the young person's spouse or partner (as defined in clause 12B) that exceeds \$258.08.</u> <ul style="list-style-type: none"> • by 50 cents for every \$1 of the relevant combined weekly income of the young person and the young person's spouse or partner (as defined in clause 12B) that exceeds \$258.08 but does not exceed \$358.08; and • by \$1 for every \$1 of the relevant combined weekly income of the young person and the young person's spouse or partner (as defined in clause 12B) that exceeds \$358.08.
12B	In clause 12A , the relevant combined weekly income of the young person and the young person's spouse or partner means their combined weekly income— <ul style="list-style-type: none"> • that is 1 or more information share child support payments; and • that exceeds \$258.08 of their combined weekly income that is 1 or both of— <ul style="list-style-type: none"> • any weekly income (excluding any 1 or more information share child support payments); • any 1 or more information share child support payments.
13	For the purposes of clause 11, 11A, 12, or 12A and a rate of young parent payment, MSD may disregard up to \$20 a week of the personal earnings of the young person (excluding any that are the young person's weekly income that is 1 or more information share child support payments) used to meet the costs of child care for any of the person's dependent children (<i>see</i> clause 6).

Subpart 2—Amendments to Social Security Regulations 2018

Principal regulations

50 Principal regulations

This subpart amends the Social Security Regulations 2018.

Childcare assistance

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51 Regulation 20 amended (Interpretation)

- (1) In regulation 20(1), definition of **total income**, replace paragraph (a) with:
- | | | |
|------|--|----|
| (a) | the caregiver's income as defined in Part 2 of Schedule 3 of the Act (including, without limitation, a payment that is weekly income of the caregiver under clauses 3 and 8 and Part 3A of Schedule 3 of the Act because it is an information share child support payment); and | 10 |
| (aa) | a child support excess payment, which includes, without limitation, a mixed child support payment (<i>see</i> clause 8(na) of Schedule 3 of the Act); and | |
- (2) In regulation 20(1), definition of **total income**, paragraph (b)(ii), replace “; and” with “; but”.
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- (3) In regulation 20(1), definition of **total income**, revoke paragraph (c).

Temporary additional support

52 Regulation 69 amended (Chargeable income)

- (1) Replace regulation 69(3)(f) with:

- (f) income as defined in Part 2 of Schedule 3 of the Act (including, without limitation, a payment that is weekly income under clauses 3 and 8 and **Part 3A of Schedule 3** of the Act because it is an information share child support payment): 5
- (fa) a child support excess payment, which includes, without limitation, a mixed child support payment (*see clause 8(na) of Schedule 3* of the Act): 10

- (2) Revoke regulation 69(3)(h).

53 Regulation 71 amended (Allowable costs)

After regulation 71(3)(m), insert:

- (n) any child support required to be paid by a person for the week concerned under a formula assessment under the Child Support Act 1991 (regardless of whether, and, if so, how that support must under that Act be paid to, or otherwise dealt with to improve the position of, a receiving carer). 15

Benefit stand down

54 Regulation 182 amended (Period of benefit stand down: interpretation) 20

- (1) In regulation 182, definition of **income**, before “includes—”, insert “excludes any child support that is an interest acquired by the person (for example, an interest acquired that is an offset child support payment, or an interest acquired by way of any child support debt recovery by reduced further payments of child support), but” 25

- (2) In regulation 182, definition of **income**, before paragraph (a), insert:

- (aa) any money received by the person that is child support and—
- (i) is not a payment that is ordered by the Family Court under section 109 of the Child Support Act 1991 (orders for provision of child support in form of lump sum) and that MSD determines, under clause 3(b) of Schedule 3 of the Act, is an interest in capital received or acquired by the person; and 30
- (ii) may, but need not, be a child support excess payment (which includes, without limitation, a mixed child support payment) that, under **clause 8(na) of Schedule 3** of the Act, is not income of the person; and 35

- (iii) may, but need not, be a payment that, under clause 9 of Schedule 3 of the Act and regulation 294 (income exemptions), is not income of the person; and
- (iv) is an information share child support payment or a ~~non-information share~~ general provisions child support payment:

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Recovery of debt

55 Regulation 207 amended (Exceptions to duty to recover debts)

After regulation 207(1)(a), insert:

- (aa) **regulation 208A** (debts caused by disruption to automated electronic system):
- (ab) **regulation 208B** (debts caused by specified errors identified through information share child support payment reviews):

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56 New regulations 208A and 208B inserted

After regulation 208, insert:

208A Debts caused by disruption to automated electronic system

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- (1) MSD cannot recover under the Act a sum comprising a debt, or that part of a debt, that was caused wholly or partly by a disruption to an automated electronic system.
- (2) In this regulation,—
 - automated electronic system** means an automated electronic system used under **subpart 5A of Part 6** of the Act
 - disruption**, to an automated electronic system, includes, without limitation, a disruption to disclosure to MSD of all or any information used in or by the system.

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208B Debts caused by specified errors identified through information share child support payment reviews

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- (1) MSD cannot recover under the Act a sum comprising a debt, or that part of a debt, that was caused wholly or partly by a specified error identified through an information share child support payment review.
- (2) In this regulation,—
 - information share child support payment review** means a review under **section 304(1A)** of the Act of whether a person's information share child support payment is or was all or any of their weekly income
 - specified error** means 1 or both of the following:
 - (a) MSD has charged an amount of income that is not the correct amount (*see section 304A(1)(c)* of the Act):

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- (b) a person has been incorrectly not identified as the proper recipient of the payment (whether that non-identification was by an automated electronic system or a person) (*see section 304A(1)(d)* of the Act).

Transitional, savings, and related provisions

57 Schedule 1 amended 5

In Schedule 1,—

- (a) insert the Part set out in **Part 3 of the Schedule** of this Act as the last Part; and
- (b) make all necessary consequential amendments.

Cash assets and income exemptions 10

58 Schedule 8, clause 1 amended (Cash assets exemptions (for accommodation supplement))

In Schedule 8, clause 1, after item 22, insert:

23	A child support payment to which clause 6062 applies	Not cash assets of the person to whom the payment was made	Only for the weeks that, under Part 3A of Schedule 3 of the Act, the payment is charged as all or any of their weekly income
24	A child support payment to which clause 6062 applies if the person to whom the payment was made was in exceptional circumstances (as defined in clause 5961) at all or any times in the weeks that, under Part 3A of Schedule 3 of the Act, the payment is charged as all or any of their weekly income	Not cash assets of the person to whom the payment was made	Only for 28 days after the weeks that, under Part 3A of Schedule 3 of the Act, the payment is charged as all or any of their weekly income

59 Schedule 8, clause 2 amended (Cash assets exemptions (for temporary additional support)) 15

In Schedule 8, clause 2, after item 23, insert:

24	A child support payment to which clause 6062 applies	Not cash assets of the person to whom the payment was made	Only for the weeks that, under Part 3A of Schedule 3 of the Act, the payment is charged as all or any of their weekly income
25	A child support payment to which clause 6062 applies if the person to whom it was made was in exceptional circumstances (as defined in clause 5961) at all or any times in the	Not cash assets of the person to whom the payment was made	Only for 28 days after the weeks that, under Part 3A of Schedule 3 of the Act, the payment is charged as all or any

weeks that, under **Part 3A of Schedule 3** of the Act, the payment is charged as all or any of their weekly income of their weekly income

60 Schedule 8, clause 4 amended (Income exemptions (for purposes of Act))

In Schedule 8, clause 4, after item ~~2829~~, insert:

2930	An information share child support payment to which clause 6163 applies	Not income for the person to whom the payment was made
<u>31</u>	A general provisions child support payment to which clause 64 applies	<u>Not income for the person to whom the payment was made</u>

61 New Parts ~~34 and 35~~ 35 to 37 of Schedule 8 inserted

In Schedule 8, after Part ~~3334~~, insert:

Part 3435 5

**Child support payments: cash assets exemptions
(accommodation supplement and temporary additional support)**

5961 Interpretation

Definition of child support payment

(1) In this Part, **child support payment** means money received by a person by way of child support (as defined in section 2(1) of the Child Support Act 1991) that is— 10

(a) an information share child support payment; and

(b) charged as all or any of the weekly income of the person under **Part 3A of Schedule 3** of the Act. 15

Definition of exceptional circumstances

(2) For the purposes of **item 24 of clause 1** and of **item 25 of clause 2**, a person is in **exceptional circumstances** if all or any of the following apply or applies to the person: 20

Bereavement

(a) a member of the person’s immediate family has died: 20

Serious illness, serious injury, or serious sickness

(b) the person, or a member of the person’s immediate family, is suffering from a serious illness, a serious injury, or a serious sickness: 25

Patient in hospital care

(c) the person, or a member of the person’s immediate family, is a patient in hospital care: 25

	<i>Victim of crime</i>	
(d)	the person is a victim:	
	<i>Area affected by emergency, disease, or other exceptional adverse event</i>	
(e)	the person resides in, or is present in and cannot reasonably leave, an area in respect of which a state of local emergency or state of national emergency is in force under Part 4 of the Civil Defence Emergency Management Act 2002:	5
(f)	the person resides in, or is present in and cannot reasonably leave, an area that is or may be affected by an outbreak of a quarantinable disease in respect of which an epidemic notice has been given, and is in force, under section 5(1) of the Epidemic Preparedness Act 2006:	10
(g)	the beneficiary resides in, or is present in and cannot reasonably leave, an area that is or may be affected by any exceptional adverse event other than those prescribed by paragraphs (e) and (f) .	
(3)	In this Part, unless the context otherwise requires,—	15
	crime means an offence for which the offender—	
(a)	is liable on conviction to imprisonment for life or to imprisonment for more than 3 months; or	
(b)	would have been liable on conviction to imprisonment for life or to imprisonment for more than 3 months but for circumstances (for example, the offender has died)	20
	hospital care means hospital care within the meaning of section 4(1) of the Health and Disability Services (Safety) Act 2001	
	immediate family , in relation to a person,—	
(a)	means a member of the person’s family, whānau, or other culturally recognised family group, who is in a close relationship with the person at the time of the death; and	25
(b)	to avoid doubt, includes—	
(i)	a spouse, civil union partner, or de facto partner:	
(ii)	a child or stepchild:	30
(iii)	a brother, sister, stepbrother, or stepsister:	
(iv)	a parent or step-parent:	
(v)	a grandparent	
	victim means—	
(a)	a person against whom a crime has been committed by another person; and	35

- (b) a person who, through (or by means of) a crime committed by another person, has suffered physical or emotional harm, or loss of, or damage to, property; and
- (c) a parent or legal guardian of a child, or of a young person, who falls within **paragraph (a) or (b)**, unless that parent or guardian is charged with the commission of, is convicted or found guilty of, or pleads guilty to the crime concerned; and 5
- (d) a member of the immediate family of a person who, as a result of a crime committed by another person, has died, unless that member is charged with the commission of, is convicted or found guilty of, or pleads guilty to the crime concerned. 10

6062 Payments

This clause applies to a child support payment made to a person.

Part 3536

Information share child support payments if transfer to new benefit paid in different instalments: income exemptions (for purposes of Act) 15

6163 Information share child support payment if transfer to new benefit paid in different instalments and payment income before date new benefit commences 20

Transfer from weekly-instalment benefit to fortnightly-instalment benefit

- (1) This clause applies to an information share child support payment made to a person if—
 - (a) the person transfers—
 - (i) from a benefit paid in instalments of 1 week's benefit (the **former benefit**); and 25
 - (ii) to a benefit paid in instalments of 2 weeks' benefit (the **new benefit**); and
 - (b) the payment's deemed receipt is on or after the commencement date of the new benefit; and 30
 - (c) the payment starts to be charged as all or any of the weekly income of the person under **Part 3A of Schedule 3** of the Act before the commencement date of the new benefit.

Transfer from fortnightly-instalment benefit to weekly-instalment benefit

- (2) This clause also applies to an information share child support payment made to a person if— 35
 - (a) the person transfers—

- (i) from a benefit paid in instalments of 2 weeks' benefit (the **former benefit**); and
- (ii) to a benefit paid in instalments of 1 week's benefit (the **new benefit**); and
- (b) the payment's deemed receipt is on or after the commencement date of the new benefit; and
- (c) the payment starts to be charged as all or any of the weekly income of the person under **Part 3A of Schedule 3** of the Act before the commencement date of the new benefit.

Part 37

General provisions child support payments when benefit or other assistance paid on backdated basis: income exemptions (for purposes of Act)

64 General provisions child support payments when benefit or other assistance paid on backdated basis

This clause applies to a general provisions child support payment that is paid to the person when, and only to the extent that, the benefit, or other assistance under the Act, that the person is receiving is—

- (a) payable before the time of MSD's decision to grant the benefit or other assistance under the Act; and
- (b) subject to testing based on any person's assets, income, or other means of any kind (however described).

Subpart 3—Amendments to Public and Community Housing Management Act 1992

Principal Act

62 Principal Act

This subpart amends the Public and Community Housing Management Act 1992.

Definitions

63 Section 2 amended (Interpretation)

In section 2(1), replace the definition of **calculation mechanism** with:

calculation mechanism means—

- (a) sections 107 to 113; and
- (b) the regulations for the time being in force under section 114

*Deprivation of income, property, or both***64 Section 112 amended (Assessable income may be adjusted in certain cases)**

After section 112(1), insert:

- (1A) For the purposes of this section, deprivation of income, property, or both, by an applicable person excludes that applicable person doing all or any of— 5
- (a) not applying for a formula assessment of child support payable in respect of a qualifying child under the Child Support Act 1991: 5
 - (b) electing to end a formula assessment of child support payable in respect of a qualifying child under that Act: 5
 - (c) choosing not to enter into a voluntary agreement for child support in respect of a qualifying child under that Act (whether or not that voluntary agreement— 10
 - (i) is a voluntary agreement that, under section 48 of that Act, qualifies for acceptance by the Commissioner of Inland Revenue; and so 15
 - (ii) is a qualifying voluntary agreement (as defined in section 2(1) of that Act)): 15
 - (d) making under that Act an election to terminate liability under a qualifying voluntary agreement that, under section 48 of that Act, has been accepted by the Commissioner of Inland Revenue: 20
 - (e) not making, or making, any other arrangement (for example, one in respect of a qualifying child and that is not a qualifying voluntary agreement (as those terms are defined in section 2(1) of that Act)) that does or may affect whether or what child support is payable in respect of a qualifying child under that Act. 25
- (1B) **Subsection (1A) does not apply to, and does not limit the application of section 9 (UCB beneficiaries must apply for formula assessment) of the Child Support Act 1991 to,—**
- (a) an applicant for an unsupported child's benefit; or
 - (b) the spouse or partner of that applicant; or 30
 - (c) a UCB beneficiary (as defined in section 2(1) of the Child Support Act 1991); or
 - (d) the spouse or partner of that UCB beneficiary.

*Administrative matters and review***64A New section 115A inserted (How duty to advise satisfied for information share child support payment made to person)** 35

After section 115, insert:

115A How duty to advise satisfied for information share child support payment made to person

How section 115(1), (2), or (3) is satisfied for payment

(1) Section 115(1), (2), or (3) is satisfied for a change in a person’s circumstances that is an information share child support payment made to the person if the payment is disclosed to the agency under an approved information sharing agreement (as defined in section 138 of the Privacy Act 2020) between— 5

- (a) the Inland Revenue Department (as the department responsible for the administration of the Child Support Act 1991); and
- (b) the agency (as the department, departmental agency, or Crown entity responsible for the administration of provisions of this Act). 10

Exception if person does not promptly advise of matter relevant to review

(2) However, **subsection (1)** does not apply if—

- (a) the agency has in some way notified the person that the payment has been disclosed to the agency under an approved information sharing agreement (see the examples given in **subsection (3)**); and 15
- (b) the person does not promptly advise the agency of a change in the person’s circumstances that relates to the payment, and that is or may be relevant to a review under all or any of—

- (i) section 116 (reviews of income-related rents); 20
- (ii) section 117 (agency may review housing eligibility);
- (iii) section 118 (agency may review housing needs of tenant).

Examples of change in circumstances that relates to payment

Examples of a change in the person’s circumstances that relates to the payment include that— 25

- the person did not receive all or any of the payment;
- the payment as received by the person is of a smaller amount than the amount of the payment as disclosed to the agency under an approved information sharing agreement;
- the person has been incorrectly identified as the proper recipient of the payment. 30

Examples of agency notifying person that payment disclosed to agency

(3) For the purposes of **subsection (2)(a)**, examples of the agency in some way notifying the person that the payment has been disclosed to the agency under an approved information sharing agreement include the agency notifying the person— 35

- (a) that information share child support payments are, or will be, disclosed to the agency under an approved information sharing agreement; or

(b)	<u>that 1 or more particular information share child support payments disclosed to the agency under an approved information sharing agreement are or may be relevant to—</u>	
(i)	<u>a review proposed to be conducted under all or any of sections 116 to 118; or</u>	5
(ii)	<u>any outcome (for example, any proposed outcome) of a review conducted under all or any of sections 116 to 118.</u>	
	<i>Meaning of information share child support payment</i>	
(4)	<u>In this section, information share child support payment—</u>	10
(a)	<u>has the same meaning as in Schedule 2 of the Social Security Act 2018; and therefore</u>	10
(b)	<u>excludes a general provisions child support payment (as that term is defined in Schedule 2 of the Social Security Act 2018).</u>	
	<i>Calculation mechanism: repeal of spent provisions</i>	
65	Schedule 2 repealed Repeal Schedule 2.	15
	<i>Transitional, savings, and related provisions</i>	
66	Schedule 4 amended In Schedule 4,—	
(a)	insert the Part set out in Part 4 of the Schedule of this Act as the last Part; and	20
(b)	make all necessary consequential amendments.	
	Subpart 4—Amendments to Public and Community Housing Management (Prescribed Elements of Calculation Mechanism) Regulations 2018	25
	<i>Principal regulations</i>	
67	Principal regulations This subpart amends the Public and Community Housing Management (Prescribed Elements of Calculation Mechanism) Regulations 2018.	
	<u>Definition of cash assets for purposes of calculation mechanism for income-related rents</u>	30
67A	Regulation 3 amended (Interpretation) <u>In regulation 3(1), replace the definition of cash assets with:</u>	

cash assets,—

- (a) has the same meaning as in section 68(2) of the Social Security Act 2018; but
- (b) despite **paragraph (a)**, includes a child support payment to which—
- (i) **item 23 of clause 1** and **clause 62** of Schedule 8 of the Social Security Regulations 2018 applies; or 5
- (ii) **item 24 of clause 1** and **clause 62** of Schedule 8 of the Social Security Regulations 2018 applies

Exclusions from weekly income for calculation mechanism for income-related rents 10**68 Regulation 14 amended (Certain payments not to be income)**

- (1) In the heading to regulation 14, before “**payments**” insert “**amounts or**”.
- (2) Replace regulation 14(a)(iii) and (iv) with:
- (iii) of a kind stated in any of clause 8(b) to (j) and **(m)** to (p) of Schedule 3 of the Social Security Act 2018 (for example,— 15
- (A) in that **clause 8(m)**, an amount of child support that is an interest acquired by the person (for example, an interest acquired that is an offset child support payment or an interest acquired by way of any child support debt recovery by reduced further payments of child support): 20
- (B) in that **clause 8(n)**, a child support deduction for a receiving carer who is a UCB beneficiary:
- (C) in that **clause 8(na)**, a child support excess payment, which includes, without limitation, a mixed child support payment); or 25
- (iv) of a kind stated in clause 4 of Schedule 8 of the Social Security Regulations 2018, except for a child support payment to which—
- (A) **item 30 of clause 4** and **clause 63** of Schedule 8 of the Social Security Regulations 2018 applies; or
- (B) **item 31 of clause 4** and **clause 64** of Schedule 8 of the Social Security Regulations 2018 applies; or 30

*Transitional, savings, and related provisions***69 Schedule amended**

In the Schedule,—

- (a) insert the Part set out in **Part 5 of the Schedule** of this Act as the last Part; and 35
- (b) make all necessary consequential amendments.

Schedule
Transitional, savings, and related provisions

ss 19, 36, 57, 66, and 69

Part 1

New Part 7 inserted into Schedule 1 of Child Support Act 1991 5

Part 7

Provisions relating to Child Support (Pass On) Acts Amendment Act 2023

- 29 Application of amendments** 10
- (1) In this clause, **amendments** means the amendments made to this Act by **sub-part 1 of Part 1** of the Child Support (Pass On) Acts Amendment Act **2023**.
- (2) The amendments apply only to child support in respect of a period (whether all, or any part, of a child support year) that starts on or after **1 July 2023**.
- (3) That child support includes, but is not limited to, child support under a formula assessment or a voluntary agreement or an order of the court made or entered into before **1 July 2023**. 15
- (4) Child support in respect of a period (whether all, or any part, of a child support year) that starts before **1 July 2023** is subject to this Act as in force at the relevant time before **1 July 2023**.
- 30 Election by receiving carer to discontinue proceedings** 20
- (1) Old section 96Y(2)(a) continues to apply on and after **1 July 2023** to proceedings in respect of child support that was payable—
- (a) in respect of a particular period before that date; and
- (b) to a receiving carer who was a social security beneficiary (as defined in old section 2(1)) during that particular period. 25
- (2) **Subclause (1)** applies whether the proceedings were or are commenced before, on, or after **1 July 2023**.
- (3) In this clause, a reference to an **old** provision is a reference to that provision as in force immediately before **1 July 2023**.
- (4) This clause does not limit the generality of **clause 29(4)**. 30
- 31 Social security beneficiary to be compellable witness against liable parent**
- (1) Old section 122 continues to apply on and after **1 July 2023** to any proceeding under this Act to the extent that the proceeding relates to any period before that date.

- (2) **Subclause (1)** applies whether the proceeding was or is commenced before, on, or after **1 July 2023**.
- (3) In this clause, a reference to an **old** provision is a reference to that provision as in force immediately before **1 July 2023**.
- (4) This clause does not limit the generality of **clause 29(4)**.

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32 Regulations for transitional and savings purposes

Clauses 29 to 31 may be added to or displaced by transitional provisions or savings provisions prescribed by regulations made under **clause 98(1) of Schedule 1** of the Social Security Act 2018.

Part 2

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New Part 9 inserted into Schedule 1 of Social Security Act 2018

Part 9

Provisions relating to Child Support (Pass On) Acts Amendment Act 2023

95 Application of amendments

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- (1) In this clause,—
 - amendments** means the amendments made to this Act by **subpart 1 of Part 2** of the Child Support (Pass On) Acts Amendment Act **2023**
 - formula assessment** has the meaning in section 2(1) of the Child Support Act 1991.
- (2) The amendments apply only to—
 - (a) use on or after **1 July 2023** of automated electronic systems to make decisions, exercise powers, comply with obligations, and take related actions; and
 - (b) income based on child support in respect of a period (whether all, or any part, of a child support year) that starts on or after **1 July 2023**; and
 - (c) abatement on or after **1 July 2023** of youth payment or young parent payment.
- (3) The child support referred to in **subclause (2)(b)** includes, but is not limited to, child support under a formula assessment or a voluntary agreement or an order of a court made or entered into before **1 July 2023**.
- (4) Child support in respect of a period (whether all, or any part, of a child support year) that starts before **1 July 2023** is subject to this Act as in force at the relevant time before **1 July 2023**.

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- 96 MSD must exclude as income specified child support notified to MSD**
- (1) In this clause,—
- changeover**, for a person, means,—
- (a) the start of **31 July 2023**, if the person is in receipt of a benefit or other assistance payable in instalments of 1 week’s benefit or other assistance; 5
or
- (b) the start of **2 August 2023**, if the person is in receipt of a benefit or other assistance payable in instalments of 2 weeks’ benefit or other assistance
- income**, of a person, means income of the person for the purposes of this Act. 10
- (2) This clause applies to child support that is money received by a person if—
- (a) MSD is notified of the person’s receipt of the child support (for example, as a change of circumstances notified under section 113) before **1 July 2023**; and
- (b) the child support is income of the person for a period or periods before **1 July 2023**; and 15
- (c) MSD expects the child support to continue to be received by the person for a period or periods on or after **1 July 2023**; and
- (d) MSD would, if this clause had not been enacted, also treat the child support as income of the person for a period or periods on or after the changeover. 20
- (3) MSD must, after the changeover, treat the child support as if it were not the person’s income after the changeover.
- (4) MSD must remove, from MSD records of the person’s income, child support treated by MSD under this clause as if it were not the person’s income after the changeover. 25
- 97 MSD must ensure beneficiary’s allowable costs for temporary additional support or special benefit during specified period include certain child support liability**
- (1) This clause applies if, on or after **1 July 2023** and before or on **29 September 2023**, MSD becomes aware in any way, from information made available to MSD by or on behalf of the beneficiary, that— 30
- (a) a beneficiary was receiving, for all or any of that period, a benefit that is—
- (i) temporary additional support; or 35
- (ii) a special benefit continued under section 23 of the Social Security (Working for Families) Amendment Act 2004 (as that section is saved by clause 19 of this schedule); and

- (b) the beneficiary's allowable costs for that benefit did not include, but should have included, at all or any times during that period, child support required to be paid by them for the week or weeks concerned under a formula assessment under the Child Support Act 1991.
- (2) MSD must review under section 304 whether, for the reason specified in **subclause (1)(b)**, the beneficiary was not entitled to receive that benefit, or the rate of that benefit, that was paid to the beneficiary for all or any of that period. 5
- (3) If satisfied because of the review that the beneficiary's allowable costs for that benefit did not include, but should have included, at all or any times during that period, child support of the kind referred to in **subclause (1)(b)**, MSD must— 10
- (a) ensure that the beneficiary's relevant allowable costs for that benefit include that support from the later of **1 July 2023** or when that support started; and
- (b) suspend, cancel, or vary the rate of that benefit accordingly from a date that is within that period and that MSD reasonably determines. 15
- 98 Regulations for transitional and savings purposes**
- Power to make regulations on recommendation of relevant Minister*
- (1) The Governor-General may, by Order in Council made on the recommendation of the relevant Minister, make regulations prescribing transitional provisions, savings provisions, or both, related to amendments made by the Child Support (Pass On) Acts Amendment Act **2023** to the Child Support Act 1991, this Act, or the Public and Community Housing Management Act 1992. 20
- Regulations must be for specified transitional or savings purposes*
- (2) The regulations must be for either or both of the following purposes: 25
- (a) facilitating, or ensuring the orderliness of, the transition to those amendments being brought into operation:
- (b) ensuring that existing rights or obligations continue as part of, or despite, that transition.
- Requirements for recommendation of relevant Minister* 30
- (3) The relevant Minister who may recommend the making of regulations made under **subclause (1)** is—
- (a) the Minister (as defined in Schedule 2 for provisions of this Act), to the extent that the regulations relate to amendments made to provisions of this Act: 35
- (b) the Minister of Revenue, to the extent that the regulations relate to amendments made to the Child Support Act 1991:

- (c) the Minister of Housing, to the extent that the regulations relate to amendments made to the Public and Community Housing Management Act 1992.
- (4) The relevant Minister must not recommend the making of regulations made under **subclause (1)** unless satisfied that those regulations— 5
- (a) are reasonably necessary for either or both of the purposes in **subclause (2)(a) and (b)**; and
- (b) are consistent with the purposes of those amendments.
- Provisions prescribed may be in addition to or instead of specified clauses*
- (5) The transitional provisions or savings provisions prescribed by regulations made under **subclause (1)** may be provisions in addition to or instead of all or any of the following clauses: 10
- (a) **clauses 29 to 31 of Schedule 1** of the Child Support Act 1991 as inserted by the Child Support (Pass On) Acts Amendment Act **2023**;
- (b) **clauses 95 to 97** of this Part of this schedule of this Act as inserted by the Child Support (Pass On) Acts Amendment Act **2023**: 15
- (c) **clause 22 of Schedule 4** of the Public and Community Housing Management Act 1992 as inserted by the Child Support (Pass On) Acts Amendment Act **2023**.
- What prescribed transitional provisions or savings provisions may do* 20
- (6) The transitional provisions or savings provisions prescribed by regulations made under **subclause (1)** may do all or any of the following:
- (a) provide that, for a transitional period, in any circumstances, or subject to any conditions, specified in the regulations, 1 or more provisions (including definitions) of the relevant Act amended do not apply, or apply with modifications or additions: 25
- (b) provide that, for a transitional period, in any circumstances, or subject to any conditions, specified in the regulations, 1 or more provisions repealed, amended, or revoked by those amendments are to continue to apply, or apply with modifications or additions, as if they had not been repealed, amended, or revoked: 30
- (c) provide for any other matter necessary for either or both of the purposes in **subclause (2)(a) and (b)**.
- Secondary legislation*
- (7) Regulations under this clause are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements). 35
- Power ends at, and any regulations made are revoked at, start of 1 July 2026*
- (8) Regulations made under this clause cannot be made after, and are revoked by this clause at, the start of **1 July 2026**.

Part 3
New Part 9 inserted into Schedule 1 of Social Security
Regulations 2018

Part 9
Provisions relating to Child Support (Pass On) Acts Amendment
Act 2023

15 Application of amendments

(1) In this clause,—

amendments means the amendments made to these regulations by **subpart 2 of Part 2** of the Child Support (Pass On) Acts Amendment Act **2023**

formula assessment has the meaning in section 2(1) of the Child Support Act 1991.

(2) The amendments apply only to child support payments based on child support in respect of a period (whether all, or any part, of a child support year) that starts on or after **1 July 2023**.

(3) The child support referred to in **subclause (2)** includes, but is not limited to, child support under a formula assessment or a voluntary agreement or an order of a court made or entered into before **1 July 2023**.

(4) Child support in respect of a period (whether all, or any part, of a child support year) that starts before **1 July 2023** is subject to these regulations as in force at the relevant time before **1 July 2023**.

Part 4
New Part 5 inserted into Schedule 4 of Public and Community
Housing Management Act 1992

Part 5
Provisions relating to Child Support (Pass On) Acts Amendment
Act 2023

22 Application of amendments

(1) In this clause,—

amendments means the amendments made to this Act by **subpart 3 of Part 2** of the Child Support (Pass On) Acts Amendment Act **2023**

child support, **child support year**, and **formula assessment** have the meanings in section 2(1) of the Child Support Act 1991.

- (2) The amendments apply only to income based on child support in respect of a period (whether all, or any part, of a child support year) that starts on or after **1 July 2023**.
- (3) The child support referred to in **subclause (2)** includes, but is not limited to, child support under a formula assessment or a voluntary agreement or an order of a court made or entered into before **1 July 2023**. 5
- (4) Child support in respect of a period (whether all, or any part, of a child support year) that starts before **1 July 2023** is subject to this Act as in force at the relevant time before **1 July 2023**.
- 23 Regulations for transitional and savings purposes** 10
- Clause 22** may be added to or displaced by transitional provisions or savings provisions prescribed by regulations made under **clause 98(1) of Schedule 1** of the Social Security Act 2018.

Part 5

New Part 3 inserted into Schedule of Public and Community Housing Management (Prescribed Elements of Calculation Mechanism) Regulations 2018 15

Part 3

Provisions relating to Child Support (Pass On) Acts Amendment Act 2023 20

- 4 Application of amendments**
- (1) In this clause,—
- amendments** means the amendments made to these regulations by **subpart 4 of Part 2** of the Child Support (Pass On) Acts Amendment Act **2023**
- child support, child support year, and formula assessment** have the meanings in section 2(1) of the Child Support Act 1991. 25
- (2) The amendments apply only to child support payments based on child support in respect of a period (whether all, or any part, of a child support year) that starts on or after **1 July 2023**.
- (3) The child support referred to in **subclause (2)** includes, but is not limited to, child support under a formula assessment or a voluntary agreement or an order of the court made or entered into before **1 July 2023**. 30
- (4) Child support in respect of a period (whether all, or any part, of a child support year) that starts before **1 July 2023** is subject to these regulations as in force at the relevant time before **1 July 2023**. 35

Child Support (Pass On) Acts Amendment Bill

Legislative history

27 March 2023

28 March 2023

Introduction (Bill 241–1)

First reading and referral to Social Services and Community
Committee