Version
as at 31 March 2026

Child Support Act 1991

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Inland Revenue Department.

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Title *[Repealed]*

Title: repealed, on 1 April 2015, by section 4 of the Child Support Amendment Act 2013 (2013 No 12).

1 Title and commencement

(1) This Act is the Child Support Act 1991.

(2) This Act is hereby declared to be one of the Inland Revenue Acts within the meaning of the Tax Administration Act 1994.

(3) Except as provided in subsection (4) and section 253, this Act shall come into force on the day on which it receives the Royal assent.

(4) Part 11 and Part 15 shall come into force on 1 July 1992.

Section 1 heading: amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 1(1): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 1(2): substituted, on 1 April 1995 (applying with respect to tax on income derived in 1995–96 and subsequent income years), by section YB 1 of the Income Tax Act 1994 (1994 No 164).

2 Interpretation

(1) In this Act, unless the context otherwise requires,—

adjusted income has the meaning in section 35

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

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

approved form, in relation to any application or other matter, means a form made available by the Commissioner for the purposes of that application or matter

assessment means an assessment of child support or domestic maintenance in accordance with this Act

bank has the meaning given to it by section 155

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

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

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

(b) an overseas parenting order as defined in section 8 of the Care of Children Act 2004:

(c) any agreement (not being an order referred to in paragraph (a) or (b))—

  (i) that the parents and carers of a child agree to treat as binding on them; and

  (ii) that identifies the proportion of care that each parent and carer of the child will provide to the child

carer means, in relation to a child, a person (whether or not a parent) who provides ongoing daily care to the child, other than on a commercial basis

child expenditure amount has the meaning set out in section 30(2)

child expenditure table means, in relation to a child support year, the child expenditure table approved by the Commissioner under section 36D applying to that year

child support means any payment required to be made under this Act by any person towards the support of a qualifying child, whether under a formula assessment or a voluntary agreement or an order of the court

child support group, in relation to a parent who, at a particular time, has more than 1 qualifying child, means the qualifying children of that parent who all share the same other parent and in relation to whom child support for that time has been assessed or is being assessed

child support income amount has the meaning given to it by section 34

child support year means—

(a) the period of 9 months commencing on 1 July 1992 and ending with 31 March 1993; or

(b) the year commencing on 1 April 1993 and ending with 31 March 1994; or

(c) any subsequent year commencing on 1 April and ending with 31 March

Commissioner means the Commissioner of Inland Revenue as defined in the Tax Administration Act 1994

Consumers Price Index means the Consumers Price Index (all groups) published by Statistics New Zealand or, if that index ceases to be published, any measure certified by the Government Statistician as being equivalent to that index

domestic maintenance means any payment required to be made under this Act by any person towards the support of another person under section 58(2) or section 68(2)

employee has the same meaning as in paragraph (a) of the definition of employee in section YA 1 of the Income Tax Act 2007

employer has the same meaning as in paragraphs (a) and (b) of the definition of employer in section YA 1 of the Income Tax Act 2007

Family Court means the division of the District Court known, in accordance with section 4 of the Family Court Act 1980, as the Family Court

financial support means—

(a) child support payable under this Act; or

(b) domestic maintenance payable under this Act; or

(c) child support and domestic maintenance payable under this Act

financially independent, in relation to a person, means—

(a) in full employment; or

(b) in receipt of a basic grant or an independent circumstances grant under the Student Allowances Regulations 1998; or

(c) in receipt of payments under a government-assisted scheme which the chief executive of the department for the time being responsible for the administration of the Social Security Act 2018 considers to be analogous to a benefit payable under the Social Security Act 2018; or

(d) in receipt of a main benefit under this Act (as that expression is defined in Schedule 2 of the Social Security Act 2018) and that is payable under the Social Security Act 2018

formula assessment means an assessment made by the Commissioner in accordance with Parts 1 and 2

full employment, in relation to any person, means—

(a) employment under a contract of service or apprenticeship which requires the person to work, whether on time or piece rates, not less than an average of 30 hours per week; or

(b) self-employment of the person in any business, profession, trade, manufacture, or undertaking carried on for pecuniary profit for not less than an average of 30 hours per week; or

(c) employment of the person for any number of hours which is regarded as full-time employment for the purposes of any award, agreement, or contract relating to that employment

income has the same meaning as **net income** has in section YA 1 of the Income Tax Act 2007

income amount order means a determination under Part 5A, 6A, or 6B, or an order under Part 7, that, in relation to a person who is subject to a formula assessment, substitutes a new—

(a) child support income amount; or

(b) amount of income or adjusted income; or

(c) annual amount of child support

income from employment has the same meaning as in paragraph (a) of the definition of that term in section YA 1 of the Income Tax Act 2007 in respect of the activities of a specified office

income percentage means, in relation to a parent of a qualifying child, that parent's percentage of the combined child support income amounts of all the child's parents, as determined under section 33

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

last relevant tax year means,—

(a) in a case where a parent's income for the most recent tax year was derived solely from withholding income, the calendar year ending in that tax year:

(b) in any other case, the tax year immediately preceding the most recent tax year

liable parent means,—

(a) in relation to a parent subject to a formula assessment, a parent of a qualifying child who the Commissioner determines under section 17 is a liable parent of the child; and

(b) in relation to any other parent, a parent who is liable to pay child support under section 58(1) or 68(1)

liable person means a person who is liable to pay financial support under this Act

liable spouse or partner means a person who is liable to pay domestic maintenance under section 58(2) or section 68(2)

living allowance has the meaning given to it by section 35A

most recent tax year, in relation to a child support year, means the tax year that ended on 31 March immediately preceding the start of that child support year

officer of the Department means an officer of the Department as defined in the Tax Administration Act 1994

ordinarily resident in New Zealand has the meaning given to it by section 218

overseas jurisdiction—

(a) means a country outside New Zealand and a State, territory, province, or other part of a country outside New Zealand; and

(b) includes the Cook Islands, Niue, and Tokelau

parent, in relation to a child, means a person to whom section 7 applies

payee means,—

(a) in relation to any child support required to be paid in respect of any qualifying child, a person who is a receiving carer of that child in relation to the child support so payable:

(b) in relation to any domestic maintenance, the person who is entitled to receive that domestic maintenance under section 58(2) or section 68(2)

person includes a company, a local or public authority, and an unincorporated body of persons

proceeding means a proceeding before a court or before the Commissioner under Part 5A, 6A, or 6B

properly made, in relation to an application for acceptance of a voluntary agreement, means made in accordance with section 55

property includes real and personal property, and any estate or interest in any real or personal property, and any debt, and any thing in action, and any other right or interest

qualifying child means a child to whom section 5 applies

qualifying voluntary agreement means a voluntary agreement that, under section 48, qualifies for acceptance by the Commissioner

receiving carer means—

(a) a carer of a qualifying child who the Commissioner determines under section 17 is a receiving carer of the child; or

(b) a person who is entitled to receive child support under section 58(1) or 68(1)

social security beneficiary means a person who is in receipt of a social security benefit

social security benefit means any benefit as defined in Schedule 2 of the Social Security Act 2018

source deduction payment means a PAYE income payment (as defined in section RD 3 of the Income Tax Act 2007)

step-parent, in relation to any child, means, in applying any provision of this Act relating to the liability of a person to pay child support, any person who has been declared to be a step-parent of the child by the Family Court under section 99

tax year has the meaning in section YA 1 of the Income Tax Act 2007

UCB beneficiary, in respect of a child, means a person who is in receipt of an unsupported child's benefit for the child

unincorporated body of persons includes—

(a) a partnership:

(b) a joint venture:

(c) the trustees of a trust

unsupported child's benefit means unsupported child's benefit under section 46 of the Social Security Act 2018

withholding income means—

(a) income from employment that has a New Zealand source that is subject to the PAYE rules (as defined in section YA 1 of the Income Tax Act 2007):

(b) interest or a dividend that has a New Zealand source that is subject to the RWT rules (as defined in section YA 1 of the Income Tax Act 2007).

(1A) *[Repealed]*

(2) Unless otherwise specified, the application of any provision of this Act to a person, assessment, payment, or other matter shall be determined in respect of each day in a child support year, and any assessment or other calculation shall be made on the basis of the circumstances existing in relation to that day.

(3) For the purposes of this Act, a tax year corresponds with a child support year if,—

(a) in relation to a person whose income is assessed under the Tax Administration Act 1994, the tax year ends on the last day of the child support year:

(b) in relation to a person who is resident in a country outside New Zealand, the tax year of that country ends on a date nearest to the last day of the child support year.

(4) For the purposes of subsection (3)(a), if a person's income is assessed in relation to the year ending with the annual balance date of the person's accounts, the corresponding year is determined in accordance with section 38 of the Tax Administration Act 1994.

(5) For the purposes of subsection (3)(b), 30 September in any year is deemed to be nearer to the last preceding 31 March than to the next succeeding 31 March.

Section 2(1) **adjusted income** (previously **adjusted taxable income**): amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 2(1) **adjusted income** (previously **adjusted taxable income**): inserted, on 1 April 2015, by section 5(2) of the Child Support Amendment Act 2013 (2013 No 12).

Section 2(1) **annual amount of child support**: inserted, on 1 April 2015, by section 5(2) of the Child Support Amendment Act 2013 (2013 No 12).

Section 2(1) **annual rate of child support**: inserted, on 1 April 2015, by section 5(2) of the Child Support Amendment Act 2013 (2013 No 12).

Section 2(1) **assessment**: amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 2(1) **care cost percentage**: inserted, on 1 April 2015, by section 5(2) of the Child Support Amendment Act 2013 (2013 No 12).

Section 2(1) **care order or agreement**: inserted, on 1 April 2015, by section 5(2) of the Child Support Amendment Act 2013 (2013 No 12).

Section 2(1) **carer**: inserted, on 1 April 2015, by section 5(2) of the Child Support Amendment Act 2013 (2013 No 12).

Section 2(1) **child expenditure amount**: inserted, on 1 April 2015, by section 5(2) of the Child Support Amendment Act 2013 (2013 No 12).

Section 2(1) **child expenditure table**: inserted, on 1 April 2015, by section 5(2) of the Child Support Amendment Act 2013 (2013 No 12).

Section 2(1) **child support group**: inserted, on 1 April 2015, by section 5(2) of the Child Support Amendment Act 2013 (2013 No 12).

Section 2(1) **child support income amount**: amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 2(1) **child support percentage**: repealed, on 1 April 2015, by section 5(1) of the Child Support Amendment Act 2013 (2013 No 12).

Section 2(1) **Commissioner**: amended, on 23 September 1997, by section 2(1) of the Child Support Amendment Act (No 3) 1997 (1997 No 76).

Section 2(1) **Commissioner**: amended, on 1 April 1995 (applying with respect to tax on income derived in 1995–96 and subsequent income years), by section YB 1 of the Income Tax Act 1994 (1994 No 164).

Section 2(1) **Consumers Price Index**: inserted, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Section 2(1) **COVID-19 New Zealanders Stranded Overseas Support Programme**: repealed, on 1 July 2023, by section 4(1) of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

Section 2(1) **domestic maintenance**: inserted, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 2(1) **election period**: repealed, on 1 April 2015, by section 206 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section 2(1) **eligible applicant**: repealed, on 1 April 2015, by section 5(1) of the Child Support Amendment Act 2013 (2013 No 12).

Section 2(1) **eligible custodian**: repealed, on 1 April 2015, by section 5(1) of the Child Support Amendment Act 2013 (2013 No 12).

Section 2(1) **employee**: amended, on 1 April 2008 (effective for 2008–09 income year and later), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Section 2(1) **employee**: amended, on 1 April 1995 (applying with respect to tax on income derived in 1995–96 and subsequent income years), by section YB 1 of the Income Tax Act 1994 (1994 No 164).

Section 2(1) **employer**: amended, on 1 April 2008 (effective for 2008–09 income year and later), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Section 2(1) **employer**: amended, on 1 April 2005 (effective for 2005–06 tax year and later), by section YA 2 of the Income Tax Act 2004 (2004 No 35).

Section 2(1) **Family Court**: replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 2(1) **financial support** paragraph (b): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 2(1) **financial support** paragraph (c): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 2(1) **financially independent** paragraph (b): amended, on 1 October 1998, pursuant to regulation 49 of the Student Allowances Regulations 1998 (SR 1998/277).

Section 2(1) **financially independent** paragraph (c): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section 2(1) **financially independent** paragraph (c): amended, on 1 October 1998, by section 11 of the Employment Services and Income Support (Integrated Administration) Act 1998 (1998 No 96).

Section 2(1) **financially independent** paragraph (c): amended, on 1 October 1998, by section 57 of the Social Security Amendment Act 1998 (1998 No 19).

Section 2(1) **financially independent** paragraph (d): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section 2(1) **formula assessment**: amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 2(1) **income**: inserted, on 1 April 2022, by section 4(1) of the Child Support Amendment Act 2021 (2021 No 6).

Section 2(1) **income amount order**: replaced, on 1 April 2015, by section 5(2) of the Child Support Amendment Act 2013 (2013 No 12).

Section 2(1) **income amount order** paragraph (b): amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 2(1) **income from employment**: inserted (with effect on 1 April 2001), on 7 November 2001, by section 3(1)(b) of the Child Support Amendment Act 2001 (2001 No 90).

Section 2(1) **income from employment**: amended, on 1 April 2008 (effective for 2008–09 income year and later), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Section 2(1) **income percentage**: inserted, on 1 April 2015, by section 5(2) of the Child Support Amendment Act 2013 (2013 No 12).

Section 2(1) **income year**: repealed, on 1 April 2005 (effective for 2005–06 tax year and later), by section YA 2 of the Income Tax Act 2004 (2004 No 35).

Section 2(1) **inflation percentage**: replaced, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 2(1) **inflation percentage**: amended, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Section 2(1) **last relevant income year**: repealed, on 1 April 2005 (effective for 2005–06 tax year and later), by section YA 2 of the Income Tax Act 2004 (2004 No 35).

Section 2(1) **last relevant tax year**: replaced, on 1 April 2015, by section 5(2) of the Child Support Amendment Act 2013 (2013 No 12).

Section 2(1) **last relevant tax year** paragraph (a): amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 2(1) **last relevant tax year** paragraph (a): amended, on 25 February 2016, by section 4(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 2(1) **liable parent**: replaced, on 1 April 2015, by section 5(2) of the Child Support Amendment Act 2013 (2013 No 12).

Section 2(1) **liable spouse**: repealed, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 2(1) **liable spouse or partner**: inserted, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 2(1) **living allowance**: amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 2(1) **married person**: repealed, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 2(1) **most recent income year**: repealed, on 1 April 2005 (effective for 2005–06 tax year and later), by section YA 2 of the Income Tax Act 2004 (2004 No 35).

Section 2(1) **most recent tax year**: inserted, on 1 April 2005 (effective for 2005–06 tax year and later), by section YA 2 of the Income Tax Act 2004 (2004 No 35).

Section 2(1) **officer of the Department**: inserted, on 23 September 1997, by section 2(2) of the Child Support Amendment Act (No 3) 1997 (1997 No 76).

Section 2(1) **overseas jurisdiction**: inserted, on 26 September 2006, by section 4(2) of the Child Support Amendment Act 2006 (2006 No 42).

Section 2(1) **payee** paragraph (a): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 2(1) **payee** paragraph (b): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 2(1) **principal provider of ongoing daily care**: repealed, on 1 April 2015, by section 5(1) of the Child Support Amendment Act 2013 (2013 No 12).

Section 2(1) **proceeding**: amended, on 26 September 2006, by section 4(1)(b) of the Child Support Amendment Act 2006 (2006 No 42).

Section 2(1) **proceeding**: amended (with effect on 1 July 1994), on 15 July 1994, by section 6(1) of the Child Support Amendment Act 1994 (1994 No 74).

Section 2(1) **properly made**: replaced, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 2(1) **qualifying custodian**: repealed, on 1 April 2015, by section 5(1) of the Child Support Amendment Act 2013 (2013 No 12).

Section 2(1) **receiving carer**: replaced, on 25 February 2016, by section 4(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 2(1) **relevant average weekly earnings amount**: repealed, on 1 April 2015, by section 5(1) of the Child Support Amendment Act 2013 (2013 No 12).

Section 2(1) **shared custody child**: repealed, on 1 April 2015, by section 5(1) of the Child Support Amendment Act 2013 (2013 No 12).

Section 2(1) **social security beneficiary**: inserted (with effect on 26 November 2018), on 24 March 2021, by section 4(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 2(1) **social security benefit**: replaced, on 1 July 2023, by section 4(2) of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

Section 2(1) **source deduction payment**: substituted, on 1 April 2008 (effective for 2008–09 income year and later), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Section 2(1) **spousal maintenance**: repealed, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 2(1) **step-parent**: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 2(1) **substantially equal sharing of ongoing daily care**: repealed, on 1 April 2015, by section 5(1) of the Child Support Amendment Act 2013 (2013 No 12).

Section 2(1) **tax year**: inserted, on 1 April 2015, by section 5(2) of the Child Support Amendment Act 2013 (2013 No 12).

Section 2(1) **taxable income**: repealed, on 1 April 2022, by section 4(3) of the Child Support Amendment Act 2021 (2021 No 6).

Section 2(1) **UCB beneficiary**: inserted, on 1 July 2023, by section 4(3) of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

Section 2(1) **unsupported child's benefit**: inserted, on 1 July 2023, by section 4(3) of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

Section 2(1) **withholding income**: added (with effect on 1 April 2001), on 7 November 2001, by section 3(1)(b) of the Child Support Amendment Act 2001 (2001 No 90).

Section 2(1) **withholding income** paragraph (a): amended, on 1 April 2008 (effective for 2008–09 income year and later), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Section 2(1) **withholding income** paragraph (b): amended, on 1 April 2008 (effective for 2008–09 income year and later), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Section 2(1A): repealed, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section 2(3): added, on 24 July 1999, by section 2(3) of the Child Support Amendment Act 1999 (1999 No 81).

Section 2(3): amended, on 1 April 2005 (effective for 2005–06 tax year and later), by section YA 2 of the Income Tax Act 2004 (2004 No 35).

Section 2(3)(a): amended, on 1 April 2005 (effective for 2005–06 tax year and later), by section YA 2 of the Income Tax Act 2004 (2004 No 35).

Section 2(3)(b): amended, on 1 April 2005 (effective for 2005–06 tax year and later), by section YA 2 of the Income Tax Act 2004 (2004 No 35).

Section 2(4): added, on 24 July 1999, by section 2(3) of the Child Support Amendment Act 1999 (1999 No 81).

Section 2(4): amended, on 1 April 2005 (effective for 2005–06 tax year and later), by section YA 2 of the Income Tax Act 2004 (2004 No 35).

Section 2(5): added, on 24 July 1999, by section 2(3) of the Child Support Amendment Act 1999 (1999 No 81).

3 Act to bind the Crown

Subject to section 186, this Act shall bind the Crown.

3A Application, transitional, and savings provisions relating to amendments to this Act

Schedule 1 contains application, transitional, and savings provisions (relating to amendments made to this Act on or after 1 April 2015) that affect other provisions of this Act (*see* section 276).

Section 3A: inserted, on 17 April 2013, by section 6 of the Child Support Amendment Act 2013 (2013 No 12).

Section 3A heading: amended (with effect on 1 April 2015), on 25 February 2016, by section 5(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 3A: amended (with effect on 1 April 2015), on 25 February 2016, by section 5(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 3A: amended (with effect on 17 April 2013), on 27 February 2014, by section 147 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

4 Objects

The objects of this Act are—

(a) to affirm the right of children to be maintained by their parents:

(b) to affirm the obligation of parents to maintain their children:

(c) *[Repealed]*

(d) to provide that the level of financial support to be provided by parents for their children is to be determined according to their relative capacity to provide financial support and their relative levels of provision of care:

(e) to ensure that parents with a like capacity to provide financial support for their children should provide like amounts of financial support:

(f) to provide legislatively fixed standards in accordance with which the level of financial support to be provided by parents for their children should be determined:

(fa) to affirm the right of carers who provide significant care to children to receive financial support in respect of those children from a parent or parents of the children:

(g) to enable carers of children to receive support in respect of those children from parents without the need to resort to court proceedings:

(h) to ensure that equity exists between parents and, where applicable, carers, in respect of the costs of supporting children:

(i) to ensure that obligations to birth and adopted children are not extinguished by obligations to stepchildren:

(j) to ensure that the costs to the State of providing an adequate level of financial support for children and their carers is offset by the collection of a fair contribution from liable parents:

(k) to provide a system whereby child support and domestic maintenance payments can be collected by the Crown, and paid by the Crown to those entitled to the money.

Section 4(c): repealed, on 1 April 2015, by section 7(1) of the Child Support Amendment Act 2013 (2013 No 12).

Section 4(d): amended, on 1 April 2015, by section 7(2) of the Child Support Amendment Act 2013 (2013 No 12).

Section 4(fa): inserted, on 1 April 2015, by section 7(3) of the Child Support Amendment Act 2013 (2013 No 12).

Section 4(g): amended, on 1 April 2015, by section 7(4) of the Child Support Amendment Act 2013 (2013 No 12).

Section 4(h): amended, on 1 April 2015, by section 7(5) of the Child Support Amendment Act 2013 (2013 No 12).

Section 4(j): amended, on 1 April 2015, by section 7(6)(a) of the Child Support Amendment Act 2013 (2013 No 12).

Section 4(j): amended, on 1 April 2015, by section 7(6)(b) of the Child Support Amendment Act 2013 (2013 No 12).

Section 4(k): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

4A Overview of child support payable under formula assessment

(1) A parent or non-parent carer of a qualifying child may apply to the Commissioner for a formula assessment of child support payable for that child.

(2) The Commissioner will then determine the proportion of care that each carer of the child provides, and the income of each parent of the child, and, using that information, will identify the parent or parents who are liable to pay child support, and the carer or carers who are entitled to receive child support, in respect of the child.

(3) A person will be a liable parent in respect of a child if his or her income percentage (which is a percentage of the combined child support income amounts of both the child's parents) is greater than the person's care cost percentage (which is a cost percentage directly related to the proportion of care that the parent provides to the child).

(4) If annual child support is payable by a liable parent for a qualifying child, the amount is determined under Part 2. It is worked out by deducting the liable parent's care cost percentage from their income percentage, and then multiplying the result by the appropriate amount set out in the relevant child expenditure table (which identifies, amongst other things, the average annual expenditure on children in New Zealand, by reference to average weekly earnings).

(5) This section is by way of explanation only. If it is inconsistent with any other provision of this Act, the other provision prevails.

Section 4A: inserted, on 1 April 2015, by section 8 of the Child Support Amendment Act 2013 (2013 No 12).

Section 4A: amended, on 25 February 2016, by section 6 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Part 1
Liability to pay child support under formula assessment

General principles concerning liability to pay child support

5 Children who qualify for child support

(1) A child qualifies for child support if he or she—

(a) is under the age of 18, or is aged 18 and enrolled at and attending a school; and

(b) is not living with another person in a marriage, civil union or de facto relationship; and

(c) in the case of a person aged 16 or older, is not financially independent; and

(d) is a New Zealand citizen or is ordinarily resident in New Zealand.

(2) In subsection (1)(a), **school** means—

(a) a registered school (as defined in section 10(1) of the Education and Training Act 2020); or

(b) an overseas school.

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

(4) However, the latest that a child qualifies for child support is 31 December in the year in which they turn 18, regardless of whether they are still enrolled at and attending a school after that date.

Section 5(1)(a): replaced, on 1 April 2015, by section 9(1) of the Child Support Amendment Act 2013 (2013 No 12).

Section 5(1)(c): amended, on 26 October 2021, by section 5(1) of the Child Support Amendment Act 2021 (2021 No 6).

Section 5(1)(b): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 5(2): inserted, on 1 April 2015, by section 9(2) of the Child Support Amendment Act 2013 (2013 No 12).

Section 5(2)(a): amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Section 5(3): inserted, on 1 April 2015, by section 9(2) of the Child Support Amendment Act 2013 (2013 No 12).

Section 5(4): replaced, on 26 October 2021, by section 5(2) of the Child Support Amendment Act 2021 (2021 No 6).

6 Parents by whom child support payable

(1) Child support may be sought in respect of a qualifying child from any person—

(a) who is a parent of the child within the meaning of section 7; and

(b) who is a New Zealand citizen or is ordinarily resident in New Zealand or in a country with which New Zealand has entered into a reciprocal agreement for enforcement of child support.

(2) Notwithstanding subsection (1), where—

(a) a child has been adopted under the Adoption Act 1955 or under an adoption to which section 17 of that Act applies; and

(b) that adoption order has not been discharged,—

child support may not be sought in respect of the child in relation to any period after the time at which the final adoption order became effective from any person who was a parent of the child before that time unless that person is also a person who adopted the child.

7 Meaning of parent

(1) For the purposes of this Act, a person is a **parent** of a child if—

(a) the person's name is entered in the child's birth record under the Births, Deaths, Marriages, and Relationships Registration Act 2021, or is entered in a register of births or parentage information kept under the law of any overseas jurisdiction, as a parent of the child; or

(b) the person is or was a party to a legal marriage and the child was conceived by or born to the person, or the other party to the marriage, during the legal marriage; or

(c) the person adopted the child under the Adoption Act 1955 or under an adoption to which section 17 of that Act applies and that adoption order has not been discharged; or

(d) a New Zealand court, or a court or public authority of any overseas jurisdiction, has at any time found that the person is a parent of the child, and the finding has not been cancelled or set aside; or

(e) the person has, at any time in any proceeding before any court in New Zealand, or before any court or public authority in an overseas jurisdiction, or in writing signed by the person, acknowledged that he or she is a parent of the child and a court has not made a finding of paternity of the child that is to the contrary of that acknowledgment; or

(f) a court has, under the Family Proceedings Act 1980, made a paternity order against the person in respect of the child; or

(g) the person is the natural mother of the child; or

(h) the person has been declared to be a step-parent of the child by the Family Court under section 99; or

(i) a New Zealand court, or a court or public authority of any overseas jurisdiction, has appointed the person to be a guardian of the child, or has declared the person to be a guardian of the child, by reason of being the father of the child, and that appointment has not been cancelled or set aside.

(2) Notwithstanding subsection (1), where the Commissioner is satisfied that a person—

(a) is not, despite being a person to whom that subsection applies, a parent of a particular child; and

(b) has not been declared to be a step-parent of that child under section 99,—

that person shall not be a parent of the child for the purposes of this Act.

(3) On being requested to make a determination under subsection (2), the Commissioner may require the production of such evidence as the Commissioner, in his or her discretion, considers appropriate.

(4) Where—

(a) a child is conceived as a result of any AHR procedure to which Part 2 of the Status of Children Act 1969 applies; and

(b) a person involved in that procedure is not the mother of the child, or a person who has the rights and liabilities of a parent of the child, in terms of that Act,—

that person shall not be a parent of the child for the purposes of this Act.

(5) *[Repealed]*

Compare: 1964 No 136 s 27I(2), (3); Child Support (Assessment) Act 1989 s 8 (Aust)

Section 7(1)(a): amended, on 15 June 2023, by section 147 of the Births, Deaths, Marriages, and Relationships Registration Act 2021 (2021 No 57).

Section 7(1)(a): amended, on 26 September 2006, by section 5(1) of the Child Support Amendment Act 2006 (2006 No 42).

Section 7(1)(d): amended, on 26 September 2006, by section 5(1) of the Child Support Amendment Act 2006 (2006 No 42).

Section 7(1)(e): amended, on 26 September 2006, by section 5(2) of the Child Support Amendment Act 2006 (2006 No 42).

Section 7(1)(h): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 7(1)(i): amended, on 26 September 2006, by section 5(1) of the Child Support Amendment Act 2006 (2006 No 42).

Section 7(4)(a): amended, on 1 July 2005, by section 16(a) of the Status of Children Amendment Act 2004 (2004 No 91).

Section 7(4)(b): amended, on 1 July 2005, by section 16(b) of the Status of Children Amendment Act 2004 (2004 No 91).

Section 7(5): repealed, on 26 September 2006, by section 5(3) of the Child Support Amendment Act 2006 (2006 No 42).

7A Commissioner may disregard document from overseas jurisdiction if not satisfied that document is valid and authentic

(1) If a document purporting to be the original or a copy of a certificate, entry, or record of a birth, death, or marriage alleged to have taken place in an overseas jurisdiction is provided to the Commissioner, the Commissioner may, in his or her discretion, disregard the document for the purposes of this Act if the Commissioner is not satisfied that the document is valid and authentic.

(2) If a document purporting to be the original or a copy of an order or decree made by a court or public authority of an overseas jurisdiction is provided to the Commissioner, the Commissioner may, in his or her discretion, disregard the document for the purposes of this Act if the Commissioner is not satisfied that the document is valid and authentic.

(3) This section does not limit section 7(2).

Section 7A: inserted, on 26 September 2006, by section 6(1) of the Child Support Amendment Act 2006 (2006 No 42).

7B Assumptions about parents of child

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

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

Section 7B: inserted, on 1 April 2015, by section 10 of the Child Support Amendment Act 2013 (2013 No 12).

Application for formula assessment

Heading: replaced, on 1 April 2015, by section 10 of the Child Support Amendment Act 2013 (2013 No 12).

8 Who may apply for formula assessment

(1) Any parent or carer of a qualifying child may apply to the Commissioner for a formula assessment of child support payable in respect of the child.

(2) However, if a qualifying child is a child in respect of whom payments are being made under section 363 of the Oranga Tamariki Act 1989, then, despite subsection (1), the only person who may apply for a formula assessment in relation to the child is either of the following:

(a) the chief executive of the department for the time being responsible for the administration of the Oranga Tamariki Act 1989; or

(b) a body or organisation approved under section 396 of that Act.

Section 8: replaced, on 1 April 2015, by section 10 of the Child Support Amendment Act 2013 (2013 No 12).

Section 8(1): replaced, on 25 February 2016, by section 7 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 8(2): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 8(2)(a): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

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—

(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)).

Person must apply for formula assessment

(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.

When UCB beneficiary must make application for formula assessment

(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:

(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.

If UCB beneficiary receives child support pursuant to order under Part 4 that relates to overseas order

(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

(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,—

(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.

When UCB beneficiary not required to apply for formula assessment

(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:

(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:

(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.

Meanings in subsection (5)(b) of specified person and violence

(6) In subsection (5)(b),—

specified person, for a UCB beneficiary, means any of the following:

(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

violence has the same meaning as in section 9 of the Family Violence Act 2018.

Section 9: replaced, on 1 July 2023, by section 5 of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

10 Form of application

(1) An application for formula assessment must be in an approved form and be accompanied by the documents (if any) specified in the form.

(2) Every application must—

(a) identify at least 1 qualifying child to whom the application relates; and

(b) identify, in relation to each qualifying child, at least 1 person who provides at least 35% of ongoing daily care to the child; and

(c) identify at least 1 person as a liable, or potentially liable, parent of each qualifying child identified; and

(d) include the tax file number (as defined in section YA 1 of the Income Tax Act 2007) of each qualifying child (except to the extent that the application form permits otherwise).

(3) The application, and every document accompanying it, must be verified as specified in the application form.

(4) An application for a formula assessment is properly completed if—

(a) it contains all the information required by the application form to be supplied; and

(b) it is accompanied by all the documents required by the application form to accompany the application; and

(c) the application and documents are verified as required by the application form.

Section 10: replaced, on 1 April 2015, by section 10 of the Child Support Amendment Act 2013 (2013 No 12).

Persons who are principal providers of care or who share care substantially equally

[Repealed]

Heading: repealed, on 1 April 2015, by section 10 of the Child Support Amendment Act 2013 (2013 No 12).

11 Multiple applications in single form

(1) If an application for a formula assessment is made on a single form in respect of 2 or more children, the form may be treated as if it contained separate applications for formula assessment of child support for each child.

(2) Subsection (3) applies if—

(a) an application is made on a single form for child support in respect of 1 child or 2 or more children; and

(b) payment of child support is sought from both parents of the child or any of the children.

(3) When this subsection applies, the form may be treated as if it contained separate applications for a formula assessment of child support in respect of the child or each of the children from a parent from whom payment of child support is sought.

Section 11: replaced, on 1 April 2015, by section 10 of the Child Support Amendment Act 2013 (2013 No 12).

12 Deemed application by UCB beneficiary

(1) This section applies if a UCB beneficiary is entitled to child support payments under a voluntary agreement but child support payments then cease to be payable under the agreement because—

(a) the agreement expires; or

(b) the amount payable by the liable parent is less than the amount that would be payable by the liable parent under a formula assessment; or

(c) an election under section 64 (to terminate liability under the voluntary agreement) takes effect.

(2) If this section applies, on the day after the date on which the child support payments cease to be payable under the agreement, the Commissioner is deemed to have received from the UCB beneficiary a properly completed application for a formula assessment for child support, as required by section 9, in relation to the same child or children, the same liable parent, and the same carer, as the voluntary agreement related to.

Section 12 heading: amended, on 1 July 2023, by section 6(1) of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

Section 12: replaced, on 1 April 2015, by section 10 of the Child Support Amendment Act 2013 (2013 No 12).

Section 12(1): amended, on 1 July 2023, by section 6(2) of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

Section 12(2): amended, on 1 July 2023, by section 6(3) of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

13 Notification by Commissioner of application

(1) On receiving a properly completed application for a formula assessment in respect of 1 or more qualifying children, the Commissioner must notify the applicant, and every parent and carer identified in the application, that the Commissioner has received an application for a formula assessment and will therefore ascertain—

(a) who the liable parent or parents, and who the receiving carer or carers, of the qualifying child are; and

(b) the annual amount of child support payable by any liable parent in respect of each qualifying child identified in the application; and

(c) the annual rate of child support payable by any liable parent in respect of all the liable parent's qualifying children; and

(d) the amount payable in respect of each receiving carer; and

(e) the date on which the liability of a liable parent to pay child support began or begins.

(2) If the Commissioner needs further information from the applicant (such as the name of the other parent), the Commissioner may require the applicant to provide that information and need not take further action with respect to the application until the information is provided.

(3) If the Commissioner has already ascertained some or all of the matters listed in subsection (1), the notice under this section may include that information.

(4) The Commissioner's duty to ascertain the matters listed in subsection (1) is subject to section 13A.

Section 13: replaced, on 1 April 2015, by section 10 of the Child Support Amendment Act 2013 (2013 No 12).

Section 13(2): amended, on 25 February 2016, by section 8(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 13(4): inserted, on 25 February 2016, by section 8(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

13A Cases where formula assessment to be refused

(1) The Commissioner must refuse to make a formula assessment in respect of a qualifying child if subsection (2) or (4) applies.

(2) This subsection applies if the applicant is living with a parent of the child in a marriage, civil union, or de facto relationship.

(3) However, subsection (2) does not apply if—

(a) the applicant is a parent of the child; and

(b) the child has—

(i) a parent with whom the applicant is not living in a marriage, civil union, or de facto relationship; or

(ii) a non-parent carer with whom the applicant is not living in a marriage, civil union, or de facto relationship and who the Commissioner determines is a receiving carer.

(4) This subsection applies if the applicant is a non-parent carer of the child who the Commissioner determines is not a receiving carer.

(5) If the Commissioner refuses to make a formula assessment under this section, the Commissioner must notify the applicant of the refusal (and withdraw any notices given under section 13).

Section 13A: inserted, on 25 February 2016, by section 9 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Determining care cost percentages

Heading: replaced, on 1 April 2015, by section 10 of the Child Support Amendment Act 2013 (2013 No 12).

14 Commissioner to establish proportions of care

(1) The Commissioner must establish, for each qualifying child to whom a properly completed application relates, the proportion of ongoing daily care that each parent and non-parent carer identified in the application, or in other information provided following a request under section 13(2), provides to the child.

(2) If 2 or more people who live together each provide ongoing daily care to a child,—

(a) only 1 of those people may be treated as a carer, and the care provided by the other persons must be treated as part of the care provided by the first person; and

(b) if 1 of the people is a parent of the child, that person must be treated as the carer.

(3) The parents of a qualifying child in respect of whom payments are being made under section 363 of the Oranga Tamariki Act 1989 are deemed to provide no ongoing daily care to the child.

Section 14: replaced, on 1 April 2015, by section 10 of the Child Support Amendment Act 2013 (2013 No 12).

Section 14(3): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

15 How Commissioner establishes proportions of care

(1) For the purpose of section 14, the Commissioner must (subject to subsection (3)) rely on the content of any care order or agreement relating to a qualifying child when establishing the proportion of ongoing daily care that a carer provides to the child.

(2) If a care order or agreement specifies the proportion of nights that a child is to spend with a carer, that proportion of nights is taken to be the proportion of ongoing daily care provided to the child by that carer.

(3) A parent or carer of a qualifying child may challenge the application of subsection (1) or (2) by providing evidence of—

(a) why a care order or agreement should not be relied on; or

(b) why the proportion of nights that a child spends with a carer should not be taken to be the proportion of ongoing daily care provided to that child by that carer.

(4) If there is no care order or agreement relating to the child, or if the Commissioner is satisfied, on the basis of evidence provided, that a care order or agreement does not accurately reflect the proportion of ongoing daily care

provided by a carer to a child, the Commissioner must establish the proportion of care provided by a carer primarily on the basis of the number of nights that the child spends with the carer.

(5) If the Commissioner is satisfied, on the basis of evidence provided, that the number of nights spent with a carer is not a true reflection of the proportion of care actually provided by a carer to the child, the Commissioner must establish the proportion of care provided on the basis of the amount of time that the carer is the person responsible for the daily care of the child.

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

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

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

Section 15: replaced, on 1 April 2015, by section 10 of the Child Support Amendment Act 2013 (2013 No 12).

16 Determining care cost percentages

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

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

Section 16: replaced, on 1 April 2015, by section 10 of the Child Support Amendment Act 2013 (2013 No 12).

Liable parents and receiving carers

Heading: inserted, on 1 April 2015, by section 10 of the Child Support Amendment Act 2013 (2013 No 12).

17 Determining who are liable parents and receiving carers

(1) The Commissioner must determine the liable parents and receiving carers of each qualifying child, in accordance with this section.

(2) A parent of a qualifying child is a liable parent of that child if the parent's income percentage (as determined under section 33) is greater than or equal to their care cost percentage for that child (as determined under section 16).

(3) A parent of a qualifying child is a receiving carer of the child if the parent's income percentage is less than their care cost percentage for the child.

(3A) Despite subsections (2) and (3), a parent whose income percentage is 100% and whose care cost percentage is also 100% is a receiving carer.

(4) A non-parent carer of a qualifying child is a receiving carer of the child if the carer provides at least 35% of ongoing daily care to the child.

Section 17: replaced, on 1 April 2015, by section 10 of the Child Support Amendment Act 2013 (2013 No 12).

Commencement of liability to pay child support

[Repealed]

Heading: repealed, on 1 April 2015, by section 10 of the Child Support Amendment Act 2013 (2013 No 12).

18 Effect of being liable parent or receiving carer

(1) A person who the Commissioner determines is a liable parent of a child is liable to make payments of child support in respect of that child, unless the parent's liability is assessed as nil in accordance with section 31(1).

(2) A person who the Commissioner determines is a receiving carer of a child is a person in relation to whom child support payments in respect of the child are payable, unless no child support is payable in accordance with section 36A(3) or 36C(4).

Section 18: replaced, on 1 April 2015, by section 10 of the Child Support Amendment Act 2013 (2013 No 12).

Beginning of liability to pay child support under formula assessment

Heading: inserted, on 1 April 2015, by section 10 of the Child Support Amendment Act 2013 (2013 No 12).

19 When liability to pay child support starts

(1) The liability of a liable parent to pay child support under a formula assessment starts—

(a) from the day on which the properly completed application for that formula assessment is received by the Commissioner; or

(b) if a reassessment results in a person being identified as a liable parent, from the date specified in the reassessment as the effective date.

(2) If a parent becomes liable to pay child support to a person in relation to a child under a formula assessment, any existing liability of that parent to pay child support to the person in relation to that child under any voluntary agreement is suspended between the commencement of liability to pay under the formula assessment and the end of that liability.

(3) Subsection (4) applies if the Commissioner receives an application for a formula assessment that names a person as a parent of a qualifying child (**person P**), but person P is not at that time a parent of the child within the meaning of section 7, if all of the following conditions are met:

(a) a New Zealand court, or a court or public authority of any overseas jurisdiction, later finds person P to be a parent of the child:

(b) the Commissioner determines under this Part that person P is a liable parent of the child:

(c) the application is otherwise properly completed.

(4) Liability by person P to pay child support under a formula assessment in respect of the child starts—

(a) on the day on which the application is received by the Commissioner if—

(i) the application for the finding referred to in subsection (3)(a) (the **order**) is made no later than 60 days after the Commissioner receives the application for a formula assessment; and

(ii) the Commissioner receives the order no later than 60 days after the order is made; or

(b) on the day on which the application is received by the Commissioner, if the Commissioner is satisfied that the time limits in paragraph (a) were not met because there was a reasonable cause; or

(c) on the day on which the Commissioner receives the order, in any other case.

(5) Subsection (6) applies if the Commissioner receives an application for a formula assessment that names a person as a parent of a qualifying child (**person P**), but person P is not at that time a parent of the child within the meaning of section 7, if all of the following conditions are met:

(a) person P later, in any proceeding before any court in New Zealand, or before any court or public authority in an overseas jurisdiction, acknowledges that they are a parent of the child and a court has not made a finding of paternity of the child that is to the contrary of that acknowledgment:

(b) the Commissioner determines under this Part that person P is a liable parent of the child:

(c) the application is otherwise properly completed.

(6) Liability by person P to pay child support under a formula assessment in respect of the child starts—

(a) on the day on which the application is received by the Commissioner if—

(i) the acknowledgment is made no later than 60 days after the Commissioner receives the application for a formula assessment; and

(ii) the Commissioner receives the acknowledgment no later than 60 days after it is made; or

(b) on the day on which the application is received by the Commissioner, if the Commissioner is satisfied that the time limits in paragraph (a) were not met because there was a reasonable cause; or

(c) on the day on which the Commissioner receives the acknowledgment, in any other case.

(7) For the purposes of this section, **reasonable cause** means an event or circumstance in relation to an applicant that—

(a) is beyond the control of the applicant, including a serious illness, an accident, or a disaster; and

(b) caused, in the opinion of the Commissioner, the time limits not to be met.

Section 19: replaced, on 1 April 2015, by section 10 of the Child Support Amendment Act 2013 (2013 No 12).

Section 19(3): replaced, on 26 October 2021, by section 6 of the Child Support Amendment Act 2021 (2021 No 6).

Section 19(4): inserted, on 26 October 2021, by section 6 of the Child Support Amendment Act 2021 (2021 No 6).

Section 19(5): inserted, on 26 October 2021, by section 6 of the Child Support Amendment Act 2021 (2021 No 6).

Section 19(6): inserted, on 26 October 2021, by section 6 of the Child Support Amendment Act 2021 (2021 No 6).

Section 19(7): inserted, on 26 October 2021, by section 6 of the Child Support Amendment Act 2021 (2021 No 6).

20 Suspension of voluntary agreements

[Repealed]

Section 20: repealed, on 1 April 2015, by section 10 of the Child Support Amendment Act 2013 (2013 No 12).

Procedure after acceptance or refusal of application for formula assessment [Repealed]

Heading: repealed, on 1 April 2015, by section 10 of the Child Support Amendment Act 2013 (2013 No 12).

21 Duty to give notice of decision to unsuccessful applicant

[Repealed]

Section 21: repealed, on 1 April 2015, by section 10 of the Child Support Amendment Act 2013 (2013 No 12).

22 Duty to give notice of decision to custodian

[Repealed]

Section 22: repealed, on 1 April 2015, by section 10 of the Child Support Amendment Act 2013 (2013 No 12).

23 Duty to give notice to person from whom child support sought

[Repealed]

Section 23: repealed, on 1 April 2015, by section 10 of the Child Support Amendment Act 2013 (2013 No 12).

24 Duty to make assessment

[Repealed]

Section 24: repealed, on 1 April 2015, by section 10 of the Child Support Amendment Act 2013 (2013 No 12).

Termination of liability to pay child support under formula assessment

25 When liability to pay child support ceases

(1) A liable parent ceases to be liable to pay child support in respect of a qualifying child under a formula assessment on the day before the date on which the child—

(a) ceases to be a qualifying child; or

(b) is adopted; or

(c) dies; or

(d) in any case to which section 8(2) applied, ceases to be a child in respect of whom payments are required to be made under section 363 of the Oranga Tamariki Act 1989.

(2) A liable parent ceases to be liable to pay child support under a formula assessment on the day the parent ceases to be a liable parent under section 17, or on the day before the date on which the parent—

(a) becomes a person who is none of the following:

(i) a New Zealand citizen:

(ii) a person who is ordinarily resident in New Zealand:

(iii) a person who is ordinarily resident in a country with which New Zealand has entered into a reciprocal agreement for the enforcement of child support; or

(b) becomes a person from whom child support may not be sought in respect of the child by reason of section 6(2); or

(c) dies.

(3) A liable parent ceases to be liable to pay child support in respect of a particular receiving carer of a qualifying child under a formula assessment on the earliest of the following:

(a) if the receiving carer dies, on the earlier of the following:

(i) the 28th day after the date of death:

(ii) the day before the date on which a properly completed application for formula assessment is received by the Commissioner from a carer in place of the carer who has died:

(b) the day before the date on which the receiving carer ceases to provide at least 35% of ongoing daily care to the child:

(c) the day before the date on which the receiving carer starts to live, or resumes living, with the liable parent of the child in a marriage, civil union, or de facto relationship:

(d) *[Repealed]*

(e) *[Repealed]*

(f) in a case where a voluntary agreement made in relation to the child between the liable parent and the carer is accepted by the Commissioner, the day before the date on which that voluntary agreement first applies, in accordance with section 59.

(4) Subsection (5) applies if the Commissioner accepts an election under section 27 to end a formula assessment as it applies in respect of a qualifying child.

(5) A liable parent ceases to be liable to pay child support in respect of the qualifying child under the formula assessment on—

(a) the day on which the Commissioner received the notice of election; or

(b) if the notice of election specified a later day on which the formula assessment as it applies in respect of the qualifying child is to end, that later day.

Section 25: replaced, on 1 April 2015, by section 11 of the Child Support Amendment Act 2013 (2013 No 12).

Section 25(1)(d): inserted, on 1 April 2021, by section 7(1) of the Child Support Amendment Act 2021 (2021 No 6).

Section 25(3)(d): repealed, on 1 April 2021, by section 7(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 25(3)(e): repealed, on 25 February 2016, by section 10(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 25(4): inserted, on 25 February 2016, by section 10(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 25(5): inserted, on 25 February 2016, by section 10(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

26 Miscellaneous provisions relating to death of carer

(1) Where child support continues to be payable in terms of section 25(3)(a)(i) until the 28th day after the date of death of the receiving carer, child support payments held by the Commissioner relating to the period commencing on the day following the date of death and ending with the day on which the child support payments cease shall be refunded to the liable parent.

(2) Where child support continues to be payable in terms of section 25(3)(a)(ii) until the day on which a formula assessment in relation to a new application commences to apply, this Act shall apply as if—

(a) the receiving carer in relation to the new application was the receiving carer from the day following the date of death of the previous receiving carer; and

(b) the new application was received on the day following the date of death of the previous receiving carer.

Section 26 heading: amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 26(1): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 26(2): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 26(2)(a): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 26(2)(b): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Election to end formula assessment

27 Election by receiving carer to end formula assessment

(1) Where a formula assessment applies in respect of a qualifying child (**child C**), a person may by notice to the Commissioner elect to end the formula assessment as it applies in respect of child C.

(2) If a person (**person P**) does so, the Commissioner must accept the election if satisfied that the election qualifies for acceptance (and may refuse to accept the election if not so satisfied) (*see* section 25(4) and (5) for the effect of the Commissioner's acceptance of the election).

(3) The election qualifies for acceptance if—

(a) person P is a recognised carer of child C by virtue of subsection (6)(a); and

(b) every other recognised carer of child C (if any) agrees to the election.

(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.

(5) In determining whether to accept the election, the Commissioner—

(a) may act on the basis of any information accompanying the notice of election and any other information in the Commissioner's possession; and

(b) is not required to conduct any enquiries or investigations into the matter.

(6) For the purposes of this section, a **recognised carer of child C** is a person who is either of the following at the time the Commissioner receives the notice of election:

(a) a receiving carer of child C under the formula assessment:

(b) a parent of child C who is not a receiving carer of child C under the formula assessment but who provides at least 28% of ongoing daily care to child C.

(7) The Commissioner's acceptance of the election is final, unless overturned in accordance with subsection (8) or (9).

(8) The acceptance may be overturned, wholly on the basis of information in the Commissioner's possession at the time of the acceptance,—

(a) under Part 6, on an objection to the acceptance made under section 90(1)(bb); or

(b) under Part 7, on an appeal against the Commissioner's disallowance of an objection to the acceptance made under section 90(1)(bb).

(9) The Commissioner may overturn the acceptance if a person whom the Commissioner regarded as being a recognised carer of child C when accepting the election is a UCB beneficiary in respect of child C on the day referred to in section 25(5)(a) or (b) (as the case may be).

(10) Without affecting the acceptance, subsequent changes may be made to the receiving carers or liable parents, or to their entitlements or liabilities, under the formula assessment in respect of times before the day referred to in section 25(5)(a) or (b) (as the case may be) (and the acceptance does not prevent a person applying for a new formula assessment in respect of child C).

(11) A notice of election must be given using an approved form or given in another way approved by the Commissioner.

Compare: Child Support (Assessment) Act 1989 s 151 (Aust)

Section 27: replaced, on 25 February 2016, by section 11 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 27(4): replaced, on 1 July 2023, by section 7(1) of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

Section 27(9): amended, on 1 July 2023, by section 7(2) of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

Part 2
Amount of child support payable under formula assessment made by Commissioner

28 This Part sets out rates of child support

(1) This Part sets out the rates of child support payable under a formula assessment of child support made by the Commissioner.

(2) This Part is subject to any determination made by the Commissioner under Part 5A, or 6A, or 6B and to any order made by the court under Part 7.

(3) If no application for formula assessment of child support is made, or required to be made, or deemed to be made, under this Act, this Part shall not apply.

(4) If a carer of a child and a liable parent wish child support to be paid at a different rate, they may, subject to this Act, enter into a voluntary agreement.

Section 28(2): substituted (with effect on 1 July 1994), on 15 July 1994, by section 6(1) of the Child Support Amendment Act 1994 (1994 No 74).

Section 28(2): amended, on 26 September 2006, by section 8 of the Child Support Amendment Act 2006 (2006 No 42).

Section 28(4): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

29 Commissioner to assess child support payable under formula assessment

(1) As soon as practicable after identifying a liable parent under Part 1, the Commissioner must—

(a) assess the annual amount of child support payable by the liable parent in that child support year in respect of each of his or her qualifying children; and

(b) assess the annual rate of child support payable by the liable parent in that child support year in respect of all of his or her qualifying children; and

(c) where the application for a formula assessment was made in the previous child support year, make such assessments in relation to the previous child support year.

(2) Before, or as soon as practicable after, the start of each later child support year in which child support continues, or appears likely to continue, to be payable in respect of any qualifying child of the parent, the Commissioner must make the assessments referred to in subsection (1)(a) and (b) in relation to that later child support year.

(3) Every assessment must be done in accordance with this Part and Part 5.

Section 29: replaced, on 1 April 2015, by section 12 of the Child Support Amendment Act 2013 (2013 No 12).

30 Formula for assessing annual amount of child support

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

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

where—

i% is the liable parent's income percentage determined under section 33

c% is the liable parent's care cost percentage determined under section 16

p is the child expenditure amount for a qualifying child.

(2) The **child expenditure amount** for a qualifying child in a child support year is—

$$e \div n$$

where—

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

(a) the combined child support income amounts of both parents of the child; and

(b) the number of children in the child's child support group; and

(c) the age group of those children

n is the number of children in the same child support group as the child.

(3) However, if no child expenditure table applies because at least 1 child is aged 0 to 12 and 1 or 2 children are aged 13 or over, e is the amount, determined in accordance with the child expenditure table that would apply to the parent in respect of the child if all of the children in the child support group were the same age as the qualifying child, on the basis of—

(a) the combined child support income amounts of both parents of the child; and

(b) the number of children in the child's child support group.

(4) However, the Commissioner may make modifications to the child expenditure amount for the child that the Commissioner considers necessary or desirable if the Commissioner believes on reasonable grounds that—

(a) there are exceptional circumstances (for example, exceptional complexity of care arrangements for children within a particular child support group); and

(b) applying the provisions of this section without modification would result in an unjust or inequitable outcome (for example, an apportionment of costs that is disproportionate to the amount of expenditure attributable to the child).

Section 30: replaced, on 1 April 2015, by section 12 of the Child Support Amendment Act 2013 (2013 No 12).

Section 30(3): inserted, on 1 April 2022, by section 8 of the Child Support Amendment Act 2021 (2021 No 6).

Section 30(4): inserted, on 1 April 2022, by section 8 of the Child Support Amendment Act 2021 (2021 No 6).

31 Annual amount of child support payable by liable parent

(1) The annual amount of child support payable under a formula assessment by a liable parent in respect of a qualifying child is nil, and section 32 does not apply, if—

(a) the liable parent provides more than 65% of ongoing daily care to the child; or

(b) the liable parent provides at least 28% of ongoing daily care to the child and the liable parent's income percentage is equal to their care cost percentage; or

(c) no receiving carer provides at least 35% of ongoing daily care to the child.

(2) Where subsection (1) does not apply, the annual amount of child support payable under a formula assessment by a liable parent in a child support year in respect of a qualifying child is as follows:

(a) the amount determined in accordance with the formula set out in section 30(1), unless paragraph (b) or (c) applies:

(b) for a liable parent to whom section 36 applies but section 36A does not,—

(i) the amount determined in accordance with the formula set out in section 30(1); or

(ii) the amount determined under the multi-group cap (referred to in subsection (3)) applying to the child, but only if it is less than the amount referred to in subparagraph (i):

(c) for a parent to whom section 36A applies (whether or not section 36 also applies),—

(i) the amount determined in accordance with the formula set out in section 30(1); or

(ii) if the multi-group cap applies, the amount determined under the multi-group cap applying to the child, but only if it is less than the amount referred to in subparagraph (i); or

(iii) the amount payable in respect of a receiving carer under section 36A, but only if it is less than each of the amounts referred to in subparagraph (i) or (ii).

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

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

where—

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

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

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

Section 31: replaced, on 1 April 2015, by section 12 of the Child Support Amendment Act 2013 (2013 No 12).

Modifications to basic formula in certain circumstances

[Repealed]

Heading: repealed, on 1 April 2015, by section 12 of the Child Support Amendment Act 2013 (2013 No 12).

32 Minimum annual rate of child support

If, after assessing the annual amount of child support payable under a formula assessment by a liable parent in respect of each of his or her qualifying children, the Commissioner determines that the total amount payable by the parent is less than the minimum annual rate referred to in section 72(1)(a), the Commissioner must, despite sections 30 and 31(2),—

(a) assess the parent's annual rate of child support as the minimum annual rate referred to in section 72(1)(a); and

(b) determine the proportion of that minimum annual rate of child support that is payable in respect of each receiving carer, on the basis of the number of the liable parent's qualifying children in respect of whom a formula assessment applies that each receiving carer provides care for.

Section 32: replaced, on 1 April 2015, by section 12 of the Child Support Amendment Act 2013 (2013 No 12).

Section 32: amended, on 25 February 2016, by section 12(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 32(b): amended, on 25 February 2016, by section 12(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Determining income percentages

Heading: inserted, on 1 April 2015, by section 12 of the Child Support Amendment Act 2013 (2013 No 12).

33 Income percentage

A parent's **income percentage**, in relation to a qualifying child, is the percentage figure derived by dividing the person's child support income amount (as determined under section 34) by the sum of the child support income amounts, in relation to that child, of all the parents of the child.

Section 33: replaced, on 1 April 2015, by section 12 of the Child Support Amendment Act 2013 (2013 No 12).

34 Child support income amount

(1) A parent's **child support income amount** for a child support year in relation to a child is the person's adjusted income (determined under section 35) for the child support year minus each of the following:

(a) the person's living allowance (as determined under section 35A) for the child support year:

(b) the sum of any dependent child allowances to which the person is entitled under section 35B for the child support year:

(c) any multi-group allowance that relates to the child and to which the person is entitled under section 36 for the child support year.

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

(3) If the adjusted income of a parent of a qualifying child cannot reasonably be ascertained, or cannot be applied by the Commissioner, the parent's child support income amount is to be treated as being,—

(a) if there is 1 parent whose adjusted income is known, the same as that parent's child support income amount; and

(b) if there is more than 1 parent whose adjusted income is known, the average of those parents' child support income amounts.

Section 34: replaced, on 1 April 2015, by section 12 of the Child Support Amendment Act 2013 (2013 No 12).

Section 34(1): amended, on 1 April 2022, by section 9(1) of the Child Support Amendment Act 2021 (2021 No 6).

Section 34(1): amended, on 25 February 2016, by section 13 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 34(3): amended, on 1 April 2022, by section 9(1) of the Child Support Amendment Act 2021 (2021 No 6).

Section 34(3)(a): amended, on 1 April 2022, by section 9(1) of the Child Support Amendment Act 2021 (2021 No 6).

Section 34(3)(b): amended, on 1 April 2022, by section 9(1) of the Child Support Amendment Act 2021 (2021 No 6).

35 Adjusted income

(1) A person's **adjusted income** for a child support year is,—

(a) if, in the most recent tax year, the person's income was derived solely from withholding income, the person's withholding income for the calendar year immediately preceding the start of the child support year; or

(b) if paragraph (a) does not apply, the person's income derived in the tax year immediately preceding the most recent tax year, inflated by the inflation percentage for the child support year.

(2) If a person's income for a tax year has not been assessed, the Commissioner must determine the person's income on the basis of the income and any other particulars known to the Commissioner.

(3) This section is subject to—

(a) sections 38 to 39A (which relate to ascertaining income, etc); and

(b) sections 40AA to 44A (which permit elections for adjusted income to be assessed using estimated income).

Section 35: replaced, on 1 April 2022, by section 10 of the Child Support Amendment Act 2021 (2021 No 6).

35A Living allowance

(1) A parent's **living allowance** in a child support year is the appropriate amount referred to in subsection (2)—

(a) increased by the total amount of income tax deductions that would be required to make the rate a gross, rather than a net, rate (as determined as at 1 January in the immediately preceding child support year, in accordance with section RD 11(3) of the Income Tax Act 2007); and

(b) annualised.

(2) The amount of living allowance is as follows:

(a) for a person not identified in paragraph (b), the rate set out in clause 1 of Part 2 of Schedule 4 of the Social Security Act 2018 (ignoring the reference to Income Test 1):

(b) for a person granted a supported living payment under subpart 4 of Part 2 of the Social Security Act 2018 who is, for the purposes of that benefit, a single beneficiary with 1 or more dependent children, the rate set out in clause 1(c) of Part 3 of Schedule 4 of that Act (ignoring the reference to Income Test 1).

(3) The version of the appropriate schedule of the Social Security Act 2018 that applies in a child support year is the version in force on 1 January in the immediately preceding child support year.

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

Section 35A: inserted, on 1 April 2015, by section 12 of the Child Support Amendment Act 2013 (2013 No 12).

Section 35A(1)(a): amended, on 1 April 2021, by section 11(1) of the Child Support Amendment Act 2021 (2021 No 6).

Section 35A(2): replaced, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section 35A(2)(b): replaced (with effect on 20 April 2020), on 30 April 2020, by section 28 of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section 35A(2)(b): amended, on 1 July 2023, by section 8 of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

Section 35A(2)(b): amended, on 1 April 2021, by section 11(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 35A(3): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

35B Dependent child allowance

(1) For the purpose of calculating a parent's child support income amount under section 34 in a child support year, a parent is entitled to a dependent child allowance in respect of each of his or her dependent children.

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

$$c\% \times (e \div n)$$

where—

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

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

(a) the child support income amount of the parent alone, with that amount being treated as the adjusted income of the parent, minus the parent's living allowance; and

(b) the total number of the parent's dependent children; and

(c) the age group of those children

n is the total number of the parent's dependent children.

(2A) However, if no child expenditure table applies because at least 1 child is aged 0 to 12 and 1 or 2 children are aged 13 or over, e is the amount, determined in accordance with the child expenditure table that would apply to the parent in respect of the dependent child if all of the parent's dependent children were the same age as the dependent child, on the basis of—

(a) the child support income amount of the parent alone, with that amount being treated as the adjusted income of the parent, minus the parent's living allowance; and

(b) the total number of the parent's dependent children.

(2B) However, the Commissioner may make modifications to the child expenditure amount for the child that the Commissioner considers necessary or desirable if the Commissioner believes on reasonable grounds that—

(a) there are exceptional circumstances (for example, exceptional complexity of care arrangements for the parent's dependent children); and

(b) applying the provisions of this section without modification would result in an unjust or inequitable outcome (for example, an apportionment of costs that is disproportionate to the amount of expenditure attributable to the dependent child).

(3) In this section, a person's **dependent child** means a child of whom the person is a parent (within the meaning in section 7) and who—

(a) is maintained as a member of the parent's family and for whom the parent provides at least 28% of the ongoing daily care; and

(b) is not a child in relation to whom any person is a liable parent or receiving carer, or for whom, under the law of another country, any

person is required to make payments that are of the same nature as child support; and

(c) meets the requirements of section 5(1)(a) to (c) (which describe which children qualify for child support).

Section 35B: inserted, on 1 April 2015, by section 12 of the Child Support Amendment Act 2013 (2013 No 12).

Section 35B(2)(a): amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 35B(2A): inserted, on 1 April 2022, by section 12 of the Child Support Amendment Act 2021 (2021 No 6).

Section 35B(2B): inserted, on 1 April 2022, by section 12 of the Child Support Amendment Act 2021 (2021 No 6).

36 Multi-group allowance

(1) This section applies to a parent who has more than 1 child support group.

(2) For the purpose of calculating a parent's child support income amount in relation to a particular child (**child C**) in a child support year, a parent to whom this section applies is entitled to a multi-group allowance in relation to child C.

(3) The multi-group allowance in relation to child C is the sum of the multi-group costs of each child (**child D**) of the parent who is not in the same child support group as child C.

(4) The multi-group cost of child D is—

$$e \div n$$

where—

e is the amount, determined in accordance with the child expenditure table applying to the relevant child support year, that applies to the parent in respect of child D—

(a) on the basis of the child support income amount of that parent alone, with that amount being treated as the adjusted income of the parent, minus the parent's living allowance and the sum of any dependent child allowances to which the parent is entitled; and

(b) as if—

(i) child D were one of n children; and

(ii) all those children were the same age as child D

n is the total number of children of the parent in all the parent's child support groups.

Section 36: replaced, on 1 April 2015, by section 12 of the Child Support Amendment Act 2013 (2013 No 12).

Section 36(4)(a): amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Amounts payable in respect of receiving carers

Heading: inserted, on 1 April 2015, by section 12 of the Child Support Amendment Act 2013 (2013 No 12).

36A Where parent is sole receiving carer

(1) This section applies where, in respect of a qualifying child, there is only 1 receiving carer, and that carer (**person P**) is a parent of the child.

(2) When this section applies, the amount of child support payable in respect of person P is—

(a) the amount of annual child support that person P would pay if the difference between person P's income percentage and care cost percentage (which, under the formula in section 30, is a negative percentage) were a positive percentage; or

(b) if the multi-group cap applies, the amount payable under the multi-group cap, but only if it is less than the amount payable under paragraph (a).

(3) However, no child support is payable under subsection (2) in respect of a receiving carer of a qualifying child if the receiving carer provides less than 35% of ongoing daily care to the child.

Section 36A: inserted, on 1 April 2015, by section 12 of the Child Support Amendment Act 2013 (2013 No 12).

36B Where no receiving carers are parents

(1) This section applies if, in respect of a qualifying child, there are 1 or 2 receiving carers, and neither of them is a parent of the child.

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

(3) If the liable parent is liable to pay child support in respect of 2 non-parent receiving carers, the amount of child support payable in respect of each carer is—

$$f \times (c\% \div g\%)$$

where—

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

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

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

Section 36B: inserted, on 1 April 2015, by section 12 of the Child Support Amendment Act 2013 (2013 No 12).

36C Where 1 receiving carer is parent and other is non-parent

(1) This section applies if, in respect of a qualifying child, there are 2 receiving carers, where 1 of them is a parent of the child and the other is a non-parent carer of the child.

(2) The amount of child support payable in respect of the receiving parent (**person P**) is—

(a) the amount of annual child support that person P would pay if the difference between person P's income percentage and care cost percentage (which, under the formula in section 30, is a negative percentage) were a positive percentage; or

(b) if the multi-group cap applies, the amount determined by multiplying—

(i) the amount payable in respect of the qualifying child, as determined by the liable parent's multi-group cap; by

(ii) the difference between person P's income percentage and care cost percentage, as if it were a positive percentage.

(3) The amount of child support payable in respect of the non-parent receiving carer is the annual amount of child support payable by the liable parent for the child, minus the amount payable under subsection (2) to person P.

(4) However, no child support is payable under subsection (2) in respect of a receiving carer who is a parent of a qualifying child if the parent provides less than 35% of ongoing daily care to the child.

Section 36C: inserted, on 1 April 2015, by section 12 of the Child Support Amendment Act 2013 (2013 No 12).

Expenditure on children

Heading: inserted, on 1 April 2015, by section 12 of the Child Support Amendment Act 2013 (2013 No 12).

36D Child expenditure tables

(1) Before the start of a child support year, the Commissioner must approve a child expenditure table for that child support year, based on the expenditure on children table in Schedule 3, that identifies, for the relevant child support year,—

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

(b) the amount of child support income that is taken to be expended on children, with that amount corresponding to the percentages set out in the expenditure on children table within each income band in the table.

(2) The Commissioner must ensure that the child expenditure table for the current and (if applicable) the previous child support year is available—

(a) on request to the Inland Revenue Department, in hard copy; and

(b) at all reasonable times, on an Internet site maintained by or on behalf of the Inland Revenue Department.

(3) Whenever an income amount is used in relation to the child expenditure table, the income amount must be truncated to whole dollars.

Section 36D: inserted, on 1 April 2015, by section 12 of the Child Support Amendment Act 2013 (2013 No 12).

Provisions relating to income

Heading: amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

37 Nil assessment of taxable income

[Repealed]

Section 37: repealed, on 24 October 2001, by section 260(1) of the Taxation (Taxpayer Assessment and Miscellaneous Provisions) Act 2001 (2001 No 85).

38 Application of assessments under Income Tax Act 1976 or Tax Administration Act 1994

(1) Subject to this Part, where an assessment has been made of a person's income under an income tax Act (other than an assessment made where there has been default in furnishing returns) or the Tax Administration Act 1994 (other than an assessment made under section 106 of that Act)) for any income year, then, in making a formula assessment, the person's income under the relevant one of those Acts for that income year is, for the purposes of this Act, to be taken to be that income as so assessed or as last so assessed, as the case may be, before the making of the formula assessment.

(2) Subsection (1) has effect despite the making, after the making of the formula assessment, of an amendment under an income tax Act or the Tax Administration Act 1994 to the relevant assessment of the person's income under the relevant one of those Acts (whether or not the amendment is made because of an objection in relation to the assessment).

(3) Subsection (2) does not apply in relation to the person in any case where—

(a) the income of that person assessed under an income tax Act or the Tax Administration Act 1994 in any amended assessment made after the making of a formula assessment for a child support year is more than $500 in excess of, or less than, the income of that person assessed, or last assessed, before the making of the formula assessment; and

(b) notice of the amended assessment is issued by the Commissioner on or before the last day in the child support year;—

and, where such an amendment is made, the person's income under the relevant Act for that income year is to be taken to be, and always to have been, the person's income for the income year as last so assessed under the relevant Act, and the Commissioner shall amend the formula assessment accordingly.

(4) Subsection (2) does not apply in relation to the person in any case where the reason (or one of the reasons) that the amendment was made was because, in the opinion of the Commissioner, the return of income made by the person under an income tax Act or the Tax Administration Act 1994 was fraudulent or wilfully misleading or omitted all mention of income which is of a particular nature or was derived from a particular source, and, where such an amendment is made, the person's income under the relevant Act for that income year is to be taken to be, and always to have been, the person's income for the income year as last so assessed under the relevant Act.

(5) Where—

(a) the Commissioner, applying subsection (1), assesses the annual amount of child support payable by a person; and

(b) after the making of the formula assessment, an amendment is made under an income tax Act or the Tax Administration Act 1994 to the relevant assessment of the income of any parent for the last relevant income year; and

(c) neither subsection (3) nor subsection (4) applies in relation to the amendment,—

then, in subsequently amending the formula assessment other than for the purpose of giving effect to the provisions of section 39(3) of this Act, the amendment made under an income tax Act or the Tax Administration Act 1994 is to be disregarded.

(6) Where—

(a) notice of an assessment (including an amended assessment) of a person's income under an income tax Act or the Tax Administration Act 1994 has been given under the relevant one of those Acts; and

(b) the notice was dated,—

the assessment is to be taken, for the purposes of this section, to have been made on the date of the notice.

(7) Nothing in this section is to be taken to prevent the Commissioner making a determination under Part 5A, 6A, or 6B or the court making an order under Part 7.

(8) In this section, unless the context otherwise requires,—

assessment made where there has been default in furnishing returns means an assessment made if any person makes default furnishing a return, including by—

(a) providing information in a return or an account that is not likely to be correct; or

(b) providing a return that the Commissioner is not otherwise satisfied with; or

(c) not making a return where the Commissioner has reason to suppose that the person is a taxpayer

income tax Act means all or any of the Income Tax Act 1976, the Income Tax Act 1994, the Income Tax Act 2004, and the Income Tax Act 2007.

Compare: Child Support (Assessment) Act 1989 s 56 (Aust)

Section 38 heading: amended, on 24 October 2001 (applying to 2002–03 and subsequent income years), by section 261(1) of the Taxation (Taxpayer Assessment and Miscellaneous Provisions) Act 2001 (2001 No 85).

Section 38(1): amended, on 1 April 2022, by section 13(1) of the Child Support Amendment Act 2021 (2021 No 6).

Section 38(1): amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 38(1): amended, on 1 April 1995 (applying with respect to tax on income derived in 1995–96 and subsequent income years), by section YB 1 of the Income Tax Act 1994 (1994 No 164).

Section 38(2): amended, on 1 April 2022, by section 13(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 38(2): amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 38(2): amended, on 1 April 1995 (applying with respect to tax on income derived in 1995–96 and subsequent income years), by section YB 1 of the Income Tax Act 1994 (1994 No 164).

Section 38(3): amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 38(3): amended, on 1 April 1995 (applying with respect to tax on income derived in 1995–96 and subsequent income years), by section YB 1 of the Income Tax Act 1994 (1994 No 164).

Section 38(3)(a): amended, on 1 April 2022, by section 13(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 38(3)(a): amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 38(3)(a): amended, on 1 April 1995 (applying with respect to tax on income derived in 1995–96 and subsequent income years), by section YB 1 of the Income Tax Act 1994 (1994 No 164).

Section 38(3)(b): amended, on 24 October 2001 (applying to 2002–03 and subsequent income years), by section 261(2) of the Taxation (Taxpayer Assessment and Miscellaneous Provisions) Act 2001 (2001 No 85).

Section 38(4): amended, on 1 April 2022, by section 13(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 38(4): amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 38(4): amended, on 1 April 1995 (applying with respect to tax on income derived in 1995–96 and subsequent income years), by section YB 1 of the Income Tax Act 1994 (1994 No 164).

Section 38(5): amended, on 1 April 2022, by section 13(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 38(5): amended, on 1 April 1995 (applying with respect to tax on income derived in 1995–96 and subsequent income years), by section YB 1 of the Income Tax Act 1994 (1994 No 164).

Section 38(5)(a): amended, on 1 April 2022, by section 13(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 38(5)(a): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 38(5)(b): amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 38(5)(b): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 38(5)(b): amended, on 1 April 1995 (applying with respect to tax on income derived in 1995–96 and subsequent income years), by section YB 1 of the Income Tax Act 1994 (1994 No 164).

Section 38(5)(c): amended, on 1 April 1995 (applying with respect to tax on income derived in 1995–96 and subsequent income years), by section YB 1 of the Income Tax Act 1994 (1994 No 164).

Section 38(6)(a): amended, on 1 April 2022, by section 13(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 38(6)(a): amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 38(6)(a): amended, on 24 October 2001 (applying to 2002–03 and subsequent income years), by section 261(3) of the Taxation (Taxpayer Assessment and Miscellaneous Provisions) Act 2001 (2001 No 85).

Section 38(6)(a): amended, on 1 April 1995 (applying with respect to tax on income derived in 1995–96 and subsequent income years), by section YB 1 of the Income Tax Act 1994 (1994 No 164).

Section 38(7): substituted (with effect on 1 July 1994), on 15 July 1994, by section 6(1) of the Child Support Amendment Act 1994 (1994 No 74).

Section 38(7): amended, on 26 September 2006, by section 12 of the Child Support Amendment Act 2006 (2006 No 42).

Section 38(8): inserted, on 1 April 2022, by section 13(3) of the Child Support Amendment Act 2021 (2021 No 6).

38A Position where taxable income from withholding income not available for full tax year

[Repealed]

Section 38A: repealed, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

39 Position where income not readily ascertainable

(1) Where—

(a) the Commissioner is unable to readily ascertain a person's income for the last relevant tax year; and

(b) the Commissioner has requested or required that person—

(i) to supply a return of income for the last relevant tax year; or

(ii) to supply an estimate of income for the last relevant tax year; or

(iii) to supply an estimate of the income expected to be derived in the child support year; or

(iv) to give information (whether orally or in writing), or to produce a document,—

(whether the requirement was made under this Act, or under the Income Tax Act 1976 or the Tax Administration Act 1994 or otherwise) for the purposes of ascertaining that income; and

(c) the person has refused or failed to comply with the request or requirement,—

the Commissioner may, in making a formula assessment, estimate the income derived by that person in the last relevant tax year.

(2) *[Repealed]*

(3) If—

(a) the Commissioner has applied subsection (1) in making a formula assessment; and

(b) the Commissioner subsequently ascertains the person's income for the last relevant tax year (whether or not an assessment has been made under the Income Tax Act 1976 or the Tax Administration Act 1994 in respect of that year),—

the Commissioner shall, as soon as practicable, amend the formula assessment on the basis that the person's income for the last relevant tax year is, and has always been, the subsequently ascertained income.

Compare: Child Support (Assessment) Act 1989 s 58 (Aust)

Section 39 heading: amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 39(1): amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 39(1): amended, on 1 April 2005 (effective for 2005–06 tax year and later), by section YA 2 of the Income Tax Act 2004 (2004 No 35).

Section 39(1)(a): amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 39(1)(a): amended, on 1 April 2005 (effective for 2005–06 tax year and later), by section YA 2 of the Income Tax Act 2004 (2004 No 35).

Section 39(1)(b): amended, on 1 April 1995 (applying with respect to tax on income derived in 1995–96 and subsequent income years), by section YB 1 of the Income Tax Act 1994 (1994 No 164).

Section 39(1)(b)(i): amended, on 1 April 2005 (effective for 2005–06 tax year and later), by section YA 2 of the Income Tax Act 2004 (2004 No 35).

Section 39(1)(b)(ii): amended, on 1 April 2005 (effective for 2005–06 tax year and later), by section YA 2 of the Income Tax Act 2004 (2004 No 35).

Section 39(2): repealed, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 39(3): amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 39(3): amended, on 1 April 2005 (effective for 2005–06 tax year and later), by section YA 2 of the Income Tax Act 2004 (2004 No 35).

Section 39(3)(b): amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 39(3)(b): amended, on 1 April 2005 (effective for 2005–06 tax year and later), by section YA 2 of the Income Tax Act 2004 (2004 No 35).

Section 39(3)(b): amended, on 1 April 1995 (applying with respect to tax on income derived in 1995–96 and subsequent income years), by section YB 1 of the Income Tax Act 1994 (1994 No 164).

39A Commissioner may take overseas income into account

(1) The Commissioner may, in making a formula assessment, take into account any income derived by a parent resident in a country outside New Zealand if the Commissioner is of the opinion that the income can be ascertained on the basis of information in the Commissioner's possession.

(2) For that purpose, the Commissioner may apply the provisions of this Act with such modifications as may be necessary.

(3) Without limiting the generality of subsection (2), those modifications include modifications so that—

(a) *[Repealed]*

(b) references to "tax year" and "relevant tax year" are references to—

(i) income periods of the relevant country that most appropriately correspond to the equivalent New Zealand periods; or

(ii) such other periods as the Commissioner considers appropriate in the circumstances:

(c) *[Repealed]*

(d) section 38 applies in respect of assessments and amended assessments of income that are made by the government of the relevant country as if made by the Commissioner, if the Commissioner has information as to the assessment or amended assessment:

(e) section 40 allows for elections to estimate income by a parent outside New Zealand:

(f) section 44 allows for reconciliations of estimated and actual income derived by a parent outside New Zealand:

(g) section 81 enables the Commissioner to require the parent to supply a return or estimate of the parent's overseas income.

Section 39A: inserted, on 24 July 1999, by section 8 of the Child Support Amendment Act 1999 (1999 No 81).

Section 39A heading: amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 39A(1): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 39A(3)(a): repealed, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 39A(3)(b): replaced, on 25 February 2016, by section 16(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 39A(3)(b): amended, on 1 April 2005 (effective for 2005–06 tax year and later), by section YA 2 of the Income Tax Act 2004 (2004 No 35).

Section 39A(3)(c): repealed, on 24 October 2001 (applying on first day of 2002–03 income year), by section 262(1) of the Taxation (Taxpayer Assessment and Miscellaneous Provisions) Act 2001 (2001 No 85).

Section 39A(3)(d): amended, on 25 February 2016, by section 16(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 39A(3)(e): amended, on 25 February 2016, by section 16(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 39A(3)(e): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 39A(3)(f): amended, on 25 February 2016, by section 16(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 39A(3)(f): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 39A(3)(g): amended, on 25 February 2016, by section 16(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 39A(3)(g): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Estimate of income

Heading: inserted, on 1 April 2015, by section 13 of the Child Support Amendment Act 2013 (2013 No 12).

Heading: amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

40AA Interpretation for purposes of sections 40 to 45

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

annualised estimated taxable income means the amount that a person estimates will be their income in an election period, annualised (if the estimate does not cover a full child support year) in accordance with the following formula:

$$(a \div b) \times 365$$

where—

a is the person's estimated income for the election period

b is the number of days in the election period

election means an election, made by a person under section 40, to have the person's estimated income, instead of their income referred to in section 35(1)(a) or (b), applied for the purpose of calculating the person's adjusted income for an election period

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

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

(b) if notice of the election is given under section 40(1) during the child support year, the period in the child support year that starts on the first day of the month in which the notice is given and ends on the last day of the child support year; and

(c) if notice of the election is given during or after the child support year under section 40(8), the period that—

(i) starts on the later of the first day of that child support year and the first day of the month in which the formula assessment begins; and

(ii) ends on the last day of that child support year

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

original adjusted taxable income means the adjusted income that would have been used to assess a person's child support liability during an election period if the person had not made an election

reconciliation period has the meaning given in section 44(3D)

year-to-date income means a person's income specified in a notice of election given under section 40 for the period beginning with the start of a child support year and ending with the end of the month immediately preceding the month in which the election period starts.

Section 40AA: inserted, on 1 April 2015, by section 13 of the Child Support Amendment Act 2013 (2013 No 12).

Section 40AA **annualised estimated taxable income**: amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 40AA **election**: amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 40AA **election**: amended, on 25 February 2016, by section 17(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 40AA **election period** paragraph (b): replaced, on 1 April 2022, by section 234(a) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section 40AA **election period** paragraph (c): replaced, on 1 April 2022 (immediately after being inserted by section 14(1) of the Child Support Amendment Act 2021), by section 234(b) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section 40AA **estimated taxable income**: amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 40AA **original adjusted taxable income**: amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 40AA **original taxable income**: repealed, on 25 February 2016, by section 17(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 40AA **reconciliation period**: inserted, on 1 April 2022, by section 14(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 40AA **year-to-date income**: amended, on 1 April 2022, by section 14(3) of the Child Support Amendment Act 2021 (2021 No 6).

Section 40AA **year-to-date income**: amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Election that child support income be based on estimated taxable income for current year

[Repealed]

Heading: repealed, on 1 April 2015, by section 13 of the Child Support Amendment Act 2013 (2013 No 12).

40 Estimated income

(1) Any person may, by notice to the Commissioner given before or during a child support year, elect that the income to be used to assess their adjusted income for an election period must be the estimated income specified in the notice of election.

(2) The Commissioner, subject to subsections (4) and (6), must accept an election if the sum of the person's year-to-date income (if any) and the person's estimated income is 85% or less than the person's original adjusted income.

(3) A notice of election must,—

(a) if notice of the election is given before the start of the child support year to which it relates, state the person's estimated income for the full child support year; or

(b) if notice of the election is given during the child support year to which it relates, state—

(i) the person's year-to-date income; and

(ii) the person's estimated income for the election period; or

(c) if notice of the election is given after the child support year to which it relates, state—

(i) the person's year-to-date income; and

(ii) the person's estimated income for the election period.

(4) The Commissioner may not accept an election if—

(a) an income amount order is in force in relation to the person, and to any months in the child support year in respect of which the election is to apply; or

(b) the person is subject to an order of the court under section 187; or

(c) the person has made an election within the previous 3 months, and the proposed new election would change the person's annualised estimated income by $500 or less; or

(d) the person made an election in relation to an earlier child support year and was required to provide a return of income under the Income Tax Act 2007 or the Tax Administration Act 1994 in relation to that year, but, at the time the notice is given under this section, the person is in breach of the requirement to furnish a return of income in respect of that year; or

(da) notice of the election is given after the child support year to which it relates, and the person has made an earlier election for that child support year; or

(e) the person's annualised estimated income is more than their original adjusted income.

(5) A notice under this section may be given in any form acceptable to the Commissioner, and is to be treated by the Commissioner as having been given in the month in which it was sent or provided by the person making the election, even if it is received by the Commissioner in the following month.

(6) The Commissioner may decline to accept an election if the person making the election does not, on request by the Commissioner, provide the information and evidence that the Commissioner requires in order to support the making of the estimate.

(7) Subsection (8) applies to any person who receives an assessment unless they already have an existing assessment of child support.

(8) The person may make an election during or after a child support year to which the election relates, provided the election is received by the Commissioner on or before the 28th day after notification of the assessment.

(9) If an election is made after a child support year under subsection (8), this section applies as if separate elections were made for each child support year to which the assessment relates.

Section 40: replaced, on 1 April 2015, by section 13 of the Child Support Amendment Act 2013 (2013 No 12).

Section 40 heading: amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 40(1): amended, on 1 April 2022, by section 15(1) of the Child Support Amendment Act 2021 (2021 No 6).

Section 40(1): amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 40(1): amended, on 25 February 2016, by section 18(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 40(1): amended, on 1 April 2015, by section 208(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section 40(1): amended, on 1 April 2015, by section 208(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section 40(2): amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 40(2): amended, on 25 February 2016, by section 18(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 40(3)(a): amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 40(3)(b)(ii): amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 40(3)(c): inserted, on 1 April 2022, by section 15(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 40(4)(c): amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 40(4)(da): inserted, on 1 April 2022, by section 235(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section 40(4)(e): amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 40(4)(e): amended, on 25 February 2016, by section 18(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 40(7): inserted, on 1 April 2022, by section 15(3) of the Child Support Amendment Act 2021 (2021 No 6).

Section 40(8): inserted, on 1 April 2022, by section 15(3) of the Child Support Amendment Act 2021 (2021 No 6).

Section 40(8): amended, on 1 April 2022, by section 235(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section 40(9): inserted, on 1 April 2022, by section 15(3) of the Child Support Amendment Act 2021 (2021 No 6).

Section 40(9): amended, on 1 April 2022, by section 235(3) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

41 Effect of election

(1) If the Commissioner accepts an election made by a person, the Commissioner must determine the person's adjusted income by calculating the person's annualised estimated income.

(2) The Commissioner must then adjust any formula assessment applying to the person during the election period and take whatever steps are necessary to ensure that the amount of child support payable per day during the election period reflects the adjusted assessment.

(3) The making of an election does not prevent the Commissioner making a determination under Part 5A, 6A, or 6B, or the court making an order under Part 7.

Section 41: replaced, on 1 April 2015, by section 13 of the Child Support Amendment Act 2013 (2013 No 12).

Section 41(1): replaced, on 25 February 2016, by section 19 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 41(1): amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

42 Revocation of election and subsequent elections

(1) A person who has made an election in relation to a child support year may revoke the election, before or during the child support year, by giving notice to the Commissioner; and the revocation takes effect from the start of the election period to which any election applied.

(2) If an election is in effect but the person then makes a later election,—

(a) if the Commissioner accepts the later election,—

(i) the later election takes effect from the start of the month in which the notice of election is given, and section 41 applies accordingly; and

(ii) the earlier election ceases to have effect on the last day of the previous month:

(b) if the Commissioner does not accept the later election because the amount of year-to-date income plus the new estimated income is more than 85% of the person's original adjusted income, then the earlier estimate is deemed to be revoked:

(c) if the Commissioner does not accept the election for any other reason, the earlier estimate remains in effect.

(3) A revocation is of no effect to the extent that it is inconsistent with an income amount order.

Section 42: replaced, on 1 April 2015, by section 13 of the Child Support Amendment Act 2013 (2013 No 12).

Section 42(2)(b): amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 42(2)(b): amended, on 25 February 2016, by section 20 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

43 Effect of revocation of election

(1) When an election is revoked, or deemed to be revoked, the Commissioner must—

(a) adjust any formula assessment applying to the person on the basis of the person's original adjusted income; and

(b) take whatever steps are necessary to ensure that the amount of child support payable per day, during the election period to which the revoked election relates, reflects that adjusted assessment.

(2) The revocation of an election does not prevent the Commissioner making a determination under Part 5A, 6A, or 6B, or the court making an order under Part 7, or a person making a further election.

Section 43: replaced, on 1 April 2015, by section 13 of the Child Support Amendment Act 2013 (2013 No 12).

Section 43(1)(a): amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

44 End-of-year reconciliation

(1) For the purpose of determining whether a person has, or has been, underpaid or overpaid child support in a reconciliation period (**period A**), after the end of the child support year to which an election relates, the Commissioner must complete an assessment for the person who made the election (**person A**), treating the amount determined under subsection (2) or (3B) as person A's adjusted income.

(1A) Subsections (2) and (3) apply if period A is the only election period, or the last election period, in the child support year.

(2) The amount to be treated as person A's adjusted income for the purposes of the assessment is,—

(a) if the actual income earned by person A during the year is equal to or less than the year-to-date income specified in the notice of election, nil; or

(b) if the actual income earned by person A during the year is more than the year-to-date income specified in the notice of election, the lesser of the following:

(i) person A's actual income earned in period A (which is the actual income earned in the full year less the year-to-date income specified in the notice of election), annualised in accordance with the formula in subsection (3) (which gives the **annualised actual income in the reconciliation period**):

(ii) person A's original adjusted income.

(3) The formula for annualising person A's actual income in a reconciliation period is—

$$(a \div b) \times 365$$

where—

a is the actual income earned during the reconciliation period

b is the number of days in the reconciliation period.

(3A) Subsections (3B) and (3C) apply if period A is a period that is not referred to in subsection (1A).

(3B) The amount to be treated as person A's adjusted income for the purposes of the assessment is,—

(a) if the actual income earned by person A during the year is equal to or less than the year-to-date income specified in the notice of election, nil; or

(b) if the actual income earned by person A during the year is more than the year-to-date income specified in the notice of election, the lesser of the following:

(i) person A's actual income earned in period A, annualised in accordance with the formula in subsection (3C) (which gives the **annualised actual income in the reconciliation period**):

(ii) person A's original adjusted income.

(3C) The formula for annualising person A's actual income in a reconciliation period is—

$$((a - z) \div b) \times 365$$

where—

a is the year-to-date income specified in the estimate for the period that immediately succeeds period A

z is the year-to-date income specified in the estimate for period A

b is the number of days in the reconciliation period.

(3D) In this section, unless the context otherwise requires,—

reconciliation period, in relation to an election, means a period that—

(a) starts on,—

(i) if the notice of the election is given before the start of the child support year, the start of the child support year; or

(ia) if the notice of the election is given during or after the child support year under section 40(8), the later of the first day of the child support year and the first day of the month in which the formula assessment begins; or

(ii) otherwise, the first day of the month in which the notice is given; and

(b) ends with the close of—

(i) the last day of the month before any other immediately subsequent election period starts in relation to another election; or

(ii) otherwise, the last day of the child support year.

(4) After comparing the result of the assessment done under subsection (1) with the results obtained under section 41, the Commissioner must take whatever steps are necessary to ensure that the correct amount of child support is assessed for the child support year.

(5) A reconciliation under this section is subject to any income amount order that applies during all or any part of an election period.

Section 44: replaced, on 1 April 2015, by section 13 of the Child Support Amendment Act 2013 (2013 No 12).

Section 44(1): replaced, on 1 April 2022, by section 16 of the Child Support Amendment Act 2021 (2021 No 6).

Section 44(1A): inserted, on 1 April 2022, by section 16 of the Child Support Amendment Act 2021 (2021 No 6).

Section 44(2): replaced, on 1 April 2022, by section 16 of the Child Support Amendment Act 2021 (2021 No 6).

Section 44(3): replaced, on 1 April 2022, by section 16 of the Child Support Amendment Act 2021 (2021 No 6).

Section 44(3A): inserted, on 1 April 2022, by section 16 of the Child Support Amendment Act 2021 (2021 No 6).

Section 44(3B): inserted, on 1 April 2022, by section 16 of the Child Support Amendment Act 2021 (2021 No 6).

Section 44(3C): inserted, on 1 April 2022, by section 16 of the Child Support Amendment Act 2021 (2021 No 6).

Section 44(3D): inserted, on 1 April 2022, by section 16 of the Child Support Amendment Act 2021 (2021 No 6).

Section 44(3D) **reconciliation period** paragraph (a)(ia): inserted, on 1 April 2022, by section 236 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

44A Determining income amount if no tax return filed

(1) This section applies if the Commissioner cannot determine the person's actual income during a child support year because the person, having been required to provide a return of income in respect of the tax year that corresponds to the child support year, has failed to provide it within 28 days of the requirement to provide it.

(2) Where this section applies, the Commissioner must determine that the amount to be treated as the person's adjusted income for the purpose of the assessment under section 44(2) or (3B) is the same as the person's original adjusted income, unless the Commissioner is satisfied that there is reasonable cause for the failure to provide the return of income.

(3) A determination under subsection (2) is final unless, within 28 days after the person receives notification from the Commissioner of the determination, the person—

(a) makes an objection under section 90; or

(b) provides a return of income in respect of the relevant tax year to the Commissioner.

(4) In subsection (2), **reasonable cause** means a circumstance that, on application being made by the person under section 37(3) of the Tax Administration Act 1994, results in the Commissioner extending the time for providing the return.

Section 44A: replaced, on 1 April 2015, by section 13 of the Child Support Amendment Act 2013 (2013 No 12).

Section 44A(1): amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 44A(2): replaced, on 1 April 2022, by section 17 of the Child Support Amendment Act 2021 (2021 No 6).

Penalties for underestimation

[Repealed]

Heading: repealed (with effect on 1 April 2015), on 25 February 2016, pursuant to section 23 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

45 Penalty if estimated income less than 80% of actual income

[Repealed]

Section 45: repealed (with effect on 1 April 2015), on 25 February 2016, by section 23 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

46 Interest to be charged on underestimations

[Repealed]

Section 46: repealed, on 24 July 1999, by section 17(1) of the Child Support Amendment Act 1999 (1999 No 81).

Part 3
Voluntary agreements

47 Application of this Part

(1) This Part applies where either—

(a) the parties to a voluntary agreement for child support in respect of a qualifying child; or

(b) the parties to a voluntary agreement for domestic maintenance,—

want the Commissioner to administer the agreement in accordance with this Act.

(2) The parties to a voluntary agreement for child support may be—

(a) the parents of the child; or

(b) a parent, or the parents, of the child and a carer of the child who is not the child's parent.

(3) The parties to a voluntary agreement for domestic maintenance may be—

(a) a married couple or civil union partners; or

(b) the parties to a marriage, civil union or de facto relationship that has ended; or

(c) persons who are the parents of a child but who have never been in a marriage or civil union with each other.

(4) If there is any other party to the agreement in relation to whom subsection (2) or subsection (3) does not apply, that party is to be disregarded for the purposes of the application of this Act to the voluntary agreement.

(5) If the agreement is made in relation to any child other than a qualifying child, the other child is to be disregarded for the purposes of the application of this Act to the voluntary agreement.

Compare: Child Support (Assessment) Act 1989 s 80 (Aust)

Section 47(1)(b): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 47(2)(b): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 47(3): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 47(3)(a): amended, on 19 August 2013, by section 9 of the Marriage (Definition of Marriage) Amendment Act 2013 (2013 No 20).

Section 47(3)(a): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 47(3)(b): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 47(3)(c): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Qualifying voluntary agreements

48 Voluntary agreements that qualify for acceptance

(1) A voluntary agreement qualifies for acceptance by the Commissioner under this Act only if—

(a) it is made either—

(i) by any of the parties referred to in section 47(2) and requires the payment by one party of a periodical sum of money to a carer towards the maintenance of the qualifying child; or

(ii) by any of the parties referred to in section 47(3) and requires the payment by one party of a periodical sum of money to the other party towards the maintenance of the other party; and

(b) those periodic payments are in weekly, fortnightly, or monthly instalments and at a readily determined annual rate; and

(c) each weekly instalment is not less than the minimum amount required by section 49; and

(d) it is in writing and signed by the parties; and

(e) nothing in section 50 or section 51 or section 52 disqualifies the agreement from acceptance by the Commissioner.

(2) An agreement may qualify for acceptance whether it is entered into in or outside of New Zealand.

(3) If the agreement also includes provisions of a kind not falling within subsection (1), those provisions do not have effect for the purposes of the application of this Act to the voluntary agreement.

(4) An agreement entered into by a person who is a minor shall, for the purposes of this Act, have effect as if it were entered into by a person of full age.

Section 48(1)(a)(i): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

49 Minimum instalment required before agreement can be accepted

(1) No voluntary agreement shall qualify for acceptance by the Commissioner under this Act unless each weekly instalment is not less than $10.

(2) A document that contains more than 1 voluntary agreement for the purposes of this Act and that provides both—

(a) for payments towards the support of 1 or more qualifying children; and

(b) for payments towards the support of the other party,—

shall not qualify for acceptance by the Commissioner under this Act unless—

(c) each weekly instalment in respect of the child or children is not less than $10; and

(d) each weekly instalment in respect of the other party is not less than $10.

(3) Notwithstanding subsections (1) and (2), the Commissioner may treat an agreement as qualifying for acceptance if—

(a) 2 or more voluntary agreements are made by the same parties providing for payments to be made in respect of 1 or more qualifying children; and

(b) the sum of the weekly instalments payable under those agreements is not less than $10.

50 Exception where payee is UCB beneficiary

Any voluntary agreement that provides for payments—

(a) that are towards the support of a qualifying child; and

(b) that are to be made to a person who is, or will be on the day on which the liability to make any such payment commences in terms of section 59, in receipt of an unsupported child's benefit for the qualifying child,—

shall not qualify for acceptance by the Commissioner under this Act unless the annual rate at which those payments are to be made under the agreement is equal to or exceeds the annual rate that would be payable—

(c) if the liability were assessed under a formula assessment; and

(d) if the person by whom the payments are to be made were not entitled, under the formula assessment procedure, to make an election under section 40.

Section 50 heading: amended, on 1 July 2023, by section 9(1) of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

Section 50(b): amended, on 1 July 2023, by section 9(2) of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

51 Exception in respect of child support voluntary agreement where formula assessment applies

Any voluntary agreement for child support shall not qualify for acceptance by the Commissioner under this Act if—

(a) a formula assessment of child support applies in respect of the child; and

(b) the Commissioner has not accepted an election under section 27 to end the formula assessment as it applies in respect of the child.

Section 51 heading: amended, on 25 February 2016, by section 24(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 51(a): amended, on 25 February 2016, by section 24(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 51(b): replaced, on 25 February 2016, by section 24(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

52 Exception in respect of spousal voluntary agreement where court order in force

Any voluntary agreement for domestic maintenance shall not qualify for acceptance by the Commissioner under this Act if a court order is in force requiring one party to the agreement to make payments towards the maintenance of the other party to the agreement.

Section 52: amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

53 Dual-purpose voluntary agreements

(1) If more than 1 voluntary agreement is made in the same document—

(a) in respect of the maintenance of 1 or more qualifying children or parties to the agreement:

(b) requiring payments by 2 or more parties to the agreement,—

the document may be treated as if it contained a separate agreement made for each payee by each payer.

(2) If the agreement is also made in relation to any child other than a qualifying child, the other child is to be disregarded for the purposes of the application of this Act to the voluntary agreement.

Compare: Child Support (Assessment) Act 1989 s 87 (Aust)

54 Act not to affect other provisions of agreement

Nothing in this Part shall affect the operation of a voluntary agreement in relation, as the case may be,—

(a) to any child other than a qualifying child; or

(b) to any party referred to in section 47(4); or

(c) to any provisions referred to in section 48(3).

Procedure on application for acceptance of voluntary agreements

55 Application requirements

(1) An application for acceptance by the Commissioner of a voluntary agreement is properly made if—

(a) it is made in respect of a qualifying voluntary agreement; and

(b) it is signed—

(i) in the case of a domestic maintenance agreement, by either party to the agreement:

(ii) in any other case, by both the person by whom any money is to be paid under the agreement and the person to whom that money is to be so paid; and

(c) the person by whom any money is to be paid, and the person to whom that money is to be paid, are both either New Zealand citizens or persons who are ordinarily resident in New Zealand; and

(d) it is made to the Commissioner in the appropriate approved form; and

(da) the tax file number (as defined in section YA 1 of the Income Tax Act 2007) of the qualifying child is provided; and

(e) *[Repealed]*

(f) it is verified as required by the form of application; and

(g) it is accompanied by such documents (if any) as are required by the form of application to accompany the application.

(2) Any document that accompanies the application must also be verified as required by the form of application.

Compare: Child Support (Assessment) Act 1989 s 89 (Aust)

Section 55(1)(b)(i): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 55(1)(da): inserted, on 7 October 1998, by section 4(1) of the Child Support Amendment Act 1998 (1998 No 103).

Section 55(1)(da): amended, on 1 April 2008 (effective for 2008–09 income year and later), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Section 55(1)(e): repealed, on 24 July 1999, by section 18 of the Child Support Amendment Act 1999 (1999 No 81).

56 Dual applications

If application is made on the same form for acceptance of 2 or more voluntary agreements made in relation to a qualifying child or 2 or more qualifying children (whether or not the agreements have been made in the same document), the form may be treated as if it contained separate applications for each of the agreements.

Compare: Child Support (Assessment) Act 1989 s 90 (Aust)

57 Decision on application

(1) The Commissioner shall accept a voluntary agreement if satisfied that the application is properly made.

(2) The Commissioner may refuse to accept the agreement if not satisfied that the application is properly made.

(3) In determining whether an application is properly made, the Commissioner—

(a) may act on the basis of the application and the documents accompanying the application and any other information in the Commissioner's possession; and

(b) is not required to conduct any enquiries or investigations into the matter.

Compare: Child Support (Assessment) Act 1989 ss 91, 92 (Aust)

58 Consequences of Commissioner accepting voluntary agreement

(1) If the Commissioner accepts a voluntary agreement that provides for payments of money by a liable parent towards the support of a qualifying child,—

(a) money payable in accordance with that agreement towards the support of that child is child support payable under this Act in relation to that child; and

(b) the annual rate of child support payable by the liable parent in any child support year shall be the annual rate specified in the agreement in respect of that year; and

(c) a person to whom the payments are to be made under the agreement is a person who is entitled to receive payment of child support in relation to the child in accordance with the agreement; and

(d) a person by whom the payments are to be made under the agreement is a person who is liable to make payments of child support in relation to the child in accordance with the agreement; and

(e) payment of child support is required to be made accordingly; and

(f) the provisions of this Act relating to the collection and payment of financial support by the Commissioner shall apply.

(2) If the Commissioner accepts a voluntary agreement that provides for payments of money by one party to the agreement towards the support of another party to the agreement,—

(a) money payable in accordance with that agreement towards the support of that party is domestic maintenance payable under this Act towards the support of that party; and

(b) the annual rate of domestic maintenance payable shall be the annual rate specified in the agreement in respect of that year; and

(c) a person to whom the payments are to be made under the agreement is a person who is entitled to receive payment of domestic maintenance in accordance with the agreement; and

(d) a person by whom the payments are to be made under the agreement is a person who is liable to make payments of domestic maintenance in accordance with the agreement; and

(e) payment of domestic maintenance is required to be made accordingly; and

(f) the provisions of this Act relating to the collection and payment by the Commissioner of financial support shall apply.

Compare: Child Support (Assessment) Act 1989 s 93 (Aust)

Section 58(2)(a): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 58(2)(b): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 58(2)(c): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 58(2)(d): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 58(2)(e): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

59 Commencement of liability under voluntary agreement

Where the Commissioner accepts a voluntary agreement, the child support or, as the case may be, the domestic maintenance, commences to be payable from whichever is the latest of—

(a) the day on which the application is received by the Commissioner; or

(b) if the application is refused under section 57(2), the day on which the application is properly made; or

(c) the day on which, in accordance with the agreement, payment is to commence.

Section 59: amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Procedure after acceptance or refusal of voluntary agreements

60 Duty to give notice of decision

(1) If the Commissioner accepts, or refuses to accept, a voluntary agreement, the Commissioner shall, as soon as practicable, notify each party to the agreement in writing of the decision.

(2) The notice must include, or be accompanied by, a statement that specifically draws the attention of the parties to the agreement to the right to object under section 90 to the decision of the Commissioner if he or she is aggrieved by the decision.

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

Compare: Child Support (Assessment) Act 1989 s 96 (Aust)

61 Duty to make assessment

(1) The Commissioner shall,—

(a) as soon as practicable after the acceptance of a voluntary agreement,—

(i) assess the annual rate of child support payable by the liable parent or, as the case may be, assess the annual rate of domestic maintenance payable by the liable spouse or partner, in relation to that child support year at the annual rate determined in accordance with the agreement in relation to that year; and

(ii) where the application was made in the previous child support year, make such an assessment in relation to the previous child support year; and

(b) before, or as soon as practicable after, the start of each later child support year in which child support or domestic maintenance continues to be payable under the voluntary agreement, assess the annual rate of child support payable by the liable parent or, as the case may be, assess the annual rate of domestic maintenance payable by the liable spouse or partner, in relation to that later child support year at the annual rate determined in accordance with the agreement in relation to that year.

(2) If the Commissioner accepts a voluntary agreement which requires the payment of child support to be made in relation to a qualifying child and child support is already payable in respect of the child under a formula assessment, the Commissioner shall, as soon as practicable after the acceptance of the voluntary agreement, take such action as is necessary to give effect to that agreement, whether by amending any assessment of child support that has been made in relation to the child or otherwise.

(3) Every assessment shall be made in accordance with Part 5.

Section 61(1)(a)(i): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 61(1)(b): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Termination of liability to make payments under voluntary agreements

62 When payments under voluntary agreement cease to be payable

(1) A party to a voluntary agreement that has been accepted by the Commissioner under this Act shall cease to be liable under this Act to make payments under the agreement from whichever is the earliest of the following days:

(a) in relation to an agreement for the payment of child support in respect of a qualifying child to a carer of the child,—

(i) the day that the agreement expires:

(ii) the day before the day on which the liable parent would cease to be liable to pay child support in respect of that child under section 25:

(iii) the day before the day on which the agreement ceases to qualify for acceptance by the Commissioner in terms of section 48:

(iv) the day before the day on which a notice of election under section 64 takes effect:

(b) in relation to an agreement for the payment of domestic maintenance—

(i) the day that the agreement expires:

(ii) the day before either party to the agreement becomes a person who is neither a New Zealand citizen nor a person who is ordinarily resident in New Zealand:

(iii) the day before the day on which a notice of election under section 64 takes effect:

(iv) the day before the day either party dies.

(2) Nothing in this section affects the contractual liability of any party to a voluntary agreement.

Section 62(1)(a): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 62(1)(b): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Variation of voluntary agreements

63 Voluntary agreement may be varied

(1) If a voluntary agreement that has been accepted by the Commissioner is varied by the parties, the variation shall have no effect for any purpose of this Act unless an application is made to the Commissioner for acceptance of the variation.

(2) The application must be—

(a) made to the Commissioner in the appropriate approved form; and

(b) signed by both the person by whom any money is to be paid under the agreement and the person to whom that money is to be so paid; and

(c) verified as required in the form of application; and

(d) accompanied by such documents (if any) as are required by the form of application to accompany the application.

(3) A document that accompanies the application must also be verified as required by the form of application.

(4) The provisions of sections 56 to 61 shall apply, with the necessary modifications, to an application for acceptance of a variation as if it were an application for acceptance of a voluntary agreement.

Compare: Child Support (Assessment) Act 1989 s 97 (Aust)

Miscellaneous provisions

64 Election to terminate liability under voluntary agreement

(1) The person to whom child support or domestic maintenance is payable under a voluntary agreement that has been accepted by the Commissioner may, by written notice given to the Commissioner, elect that the liability of a person to pay child support or domestic maintenance under that agreement is to end from a specified future date.

(2) The notice must be—

(a) in the appropriate approved form; and

(b) verified as required in the form of notice; and

(c) accompanied by such documents (if any) as are required by the form of notice to accompany the notice.

(3) A document that accompanies the notice must also be verified as required by the form of notice.

(4) If any such election is made,—

(a) nothing in this Part or any other provision of this Act shall apply to any money that becomes payable in accordance with the agreement after the date of the election; and

(b) any money payable in accordance with the agreement after the date of the election may, without prejudice to any mode of recovery, be recovered by any person in the District Court.

(5) An election made under subsection (1) shall be irrevocable.

Section 64(1): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 64(4)(b): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

65 Child support voluntary agreement no bar to application for formula assessment

(1) The existence of a voluntary agreement shall not prevent any party in relation to that agreement from applying to the Commissioner for formula assessment of child support under Part 1.

(2) If a properly completed application for a formula assessment of child support in respect of the child to whom the agreement relates is completed, any person who, under the agreement, was a person to whom child support was payable is deemed—

(a) to have elected under section 64 that the liability of the other party to the agreement to pay child support in respect of the child under the agreement is to end with the day before the day on which the formula assessment is to first apply; and

(b) to have met the requirements of section 64(2) and (3).

Section 65(1): amended, on 1 April 2015, by section 210(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section 65(2): replaced, on 1 April 2015, by section 210(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

66 Voluntary agreement no bar to application for maintenance order under Family Proceedings Act 1980

(1) The existence of a voluntary agreement that provides for payments of money by 1 party to the agreement towards the support of another party to the agreement shall not prevent that other party from applying under the Family Proceedings Act 1980 for a maintenance order.

(2) Where a maintenance order under that Act is made against a party to the agreement for the maintenance of another party to the agreement, that other party is deemed—

(a) to have elected under section 64 that the liability of the liable person to pay domestic maintenance under that agreement is to end with the day before the day on which the maintenance order is to first apply; and

(b) to have met the requirements of subsections (2) and (3) of that section.

Section 66 heading: amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 66(2)(a): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

66A Commissioner to give effect to orders made under Property (Relationships) Act 1976

If a court makes an order under section 32(2)(d) of the Property (Relationships) Act 1976 in relation to a voluntary agreement that has been accepted under this Part, the Commissioner must, as soon as practicable, take such action as is necessary to give effect to the order.

Section 66A: inserted, on 1 February 2002, by section 64(2) of the Property (Relationships) Amendment Act 2001 (2001 No 5).

Part 4
Court maintenance orders made after 1 July 1992

67 Application of this Part

This Part shall apply to—

(a) any maintenance order or interim maintenance order made under Part 6 of the Family Proceedings Act 1980 on or after 1 July 1992 that provides for payments to be made at an annual rate of not less than $520:

(b) any maintenance order made against any person by any court in a Commonwealth or designated country that has on or after 1 July 1992—

(i) been registered in New Zealand under the Family Proceedings Act 1980; or

(ii) been confirmed in New Zealand under that Act (other than an order confirmed under section 139 of that Act):

(c) any order made pursuant to section 78 or section 81 of the Family Proceedings Act 1980 on or after 1 July 1992:

(d) any order made under Part 6 or Part 8 of the Family Proceedings Act 1980 on or after 1 July 1992 in respect of an application under section 145 of that Act.

68 Effect of certain court orders

(1) Where any order to which this Part applies provides for payments towards the support of any child,—

(a) money payable in accordance with that order towards the support of that child is child support payable under this Act in relation to the child; and

(b) the annual rate of child support payable by the liable parent in any child support year shall, if the annual rate is specified in the order in respect of that year, be that annual rate; and

(c) a person to whom the payments are to be made under the order is a person who is entitled to receive payment of child support in relation to the child in accordance with the order; and

(d) a person by whom the payments are to be made under the order is a person who is liable to make payments of child support in relation to the child in accordance with the order; and

(e) payment of child support is required to be made accordingly; and

(f) the provisions of this Act relating to the collection and payment of financial support by the Commissioner shall apply.

(2) Where any order to which this Part applies provides for payments towards the support of any person other than a child,—

(a) money payable in accordance with that order towards the support of that party is domestic maintenance payable under this Act towards the support of that party; and

(b) the annual rate of domestic maintenance payable shall, if the annual rate is specified in the order in respect of that year, be that annual rate; and

(c) a person to whom the payments are to be made under the order is a person who is entitled to receive payment of domestic maintenance in accordance with the order; and

(d) a person by whom the payments are to be made under the order is a person who is liable to make payments of domestic maintenance in accordance with the order; and

(e) payment of domestic maintenance is required to be made accordingly; and

(f) the provisions of this Act relating to the collection and payment by the Commissioner of financial support shall apply.

Section 68(2)(a): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 68(2)(b): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 68(2)(c): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 68(2)(d): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 68(2)(e): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

69 Duty to make assessment

(1) Where the Commissioner receives from the Registrar of any court a certified or sealed copy of an order to which this Part applies, or advice from the Chief Executive of the Ministry of Justice that any such order is in force, the Commissioner shall,—

(a) as soon as practicable after the receipt thereof,—

(i) assess the annual rate of child support or domestic maintenance payable by the liable person in relation to the child support year in which that order is so received at the annual rate specified in the order in relation to that year; and

(ii) where the order came into force in the previous child support year, make such an assessment in relation to the previous child support year; and

(b) before, or as soon as practicable after, the start of each later child support year in which child support or domestic maintenance continues to be payable under the order, assess the annual rate of child support or domestic maintenance payable by the liable person under this Act, in relation to that later child support year at the annual rate specified in the order in relation to that year.

(2) Where the annual rate of child support or domestic maintenance is not specified in the order in relation to any child support year, the Commissioner shall determine the annual equivalent of the amount payable under the order and make the assessment at that rate.

(3) Every assessment shall be made in accordance with Part 5.

Section 69(1): amended, on 1 October 2003, pursuant to section 14(2) of the State Sector Amendment Act 2003 (2003 No 41).

Section 69(1)(a)(i): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 69(1)(b): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 69(2): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

70 Election that Commissioner is not to enforce order

(1) The person to whom any money is payable in accordance with any order to which this Part applies may, by written notice given to the Commissioner, elect that the order be one to which this Part does not apply.

(2) The notice must be—

(a) in the appropriate approved form; and

(b) verified as required in the form of notice; and

(c) accompanied by such documents (if any) as are required by the form of notice to accompany the notice.

(3) If any such election is made,—

(a) nothing in this Part or any other provision of this Act shall apply to any money that becomes payable in accordance with the order after the date of the election; and

(b) any money payable in accordance with the order after the date of the election may, without prejudice to any mode of recovery, be enforceable in the same manner as a judgment given by the District Court in civil proceedings.

(4) An election made under subsection (1) shall be irrevocable.

71 Period for which money payable under this Act

Any money payable under this Act in accordance with an order to which this Part applies is payable in relation to the days in the period commencing on the later of—

(a) 1 July 1992; and

(b) the day on which the order comes into force,—

and ending with the earlier of the following days:

(c) the day on which the order ceases to be in force; and

(d) the day on which an election made under section 70 takes effect.

Part 5
Assessment of child support and domestic maintenance

Part 5 heading: amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Minimum rate of child support or domestic maintenance

Heading: amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

72 Minimum rate of child support or domestic maintenance

(1) The minimum annual rate at which the Commissioner shall assess—

(a) child support payable under a formula assessment by a liable parent in respect of all of his or her children is,—

(i) for the child support year commencing on 1 April 2013, $871:

(ii) for each later child support year, the minimum annual rate of child support under this paragraph for the immediately preceding child support year, adjusted by the applicable inflation percentage:

(b) child support payable by a liable parent to a receiving carer under 1 or more voluntary agreements providing for payments to be made in respect of 1 or more children shall be, in the aggregate, $520 in respect of those children:

(c) domestic maintenance shall be $520.

(2) Subsection (1) applies notwithstanding anything to the contrary in any order of the court or in any voluntary agreement.

Section 72 heading: amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 72(1)(a): replaced, on 1 April 2015, by section 14(1) of the Child Support Amendment Act 2013 (2013 No 12).

Section 72(1)(b): amended, on 1 April 2015, by section 14(2) of the Child Support Amendment Act 2013 (2013 No 12).

Section 72(1)(c): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Exemption in certain circumstances for prisoners and hospital patients [Repealed]

Heading: repealed, on 26 September 2006, by section 15 of the Child Support Amendment Act 2006 (2006 No 42).

73 Application for exemption by prisoner or hospital patient

[Repealed]

Section 73: repealed, on 26 September 2006, by section 15 of the Child Support Amendment Act 2006 (2006 No 42).

74 Effect of election

[Repealed]

Section 74: repealed, on 26 September 2006, by section 15 of the Child Support Amendment Act 2006 (2006 No 42).

75 End of exemption

[Repealed]

Section 75: repealed, on 26 September 2006, by section 15 of the Child Support Amendment Act 2006 (2006 No 42).

76 Prisoner or hospital patient to advise Commissioner if exemption ends

[Repealed]

Section 76: repealed, on 26 September 2006, by section 15 of the Child Support Amendment Act 2006 (2006 No 42).

Provisions relating to making of assessments

77 Assessment on basis of information supplied to Commissioner

For the purpose of determining liability under a formula assessment, or making an assessment of child support or domestic maintenance payable under this Act, the Commissioner may act on the basis of the documents and information in his or her possession, and is not required to conduct any enquiries or investigations into the matter or to require (under this Act or the Income Tax Act 2007 or the Tax Administration Act 1994 or otherwise) the supply of any information or the production of any document.

Compare: Child Support (Assessment) Act 1989 s 65 (Aust)

Section 77: amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 77: amended, on 1 April 2008 (effective for 2008–09 income year and later), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Section 77: amended, on 1 April 1995 (applying with respect to tax on income derived in 1995–96 and subsequent income years), by section YB 1 of the Income Tax Act 1994 (1994 No 164).

78 Assessment to relate to all children for whom child support payable

[Repealed]

Section 78: repealed, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

79 Assessment to relate to whole or part of single child support year

An assessment of child support or domestic maintenance is to relate to all or part of a single child support year.

Compare: Child Support (Assessment) Act 1989 s 68 (Aust)

Section 79: amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

80 Assessments for part of child support year

In making an assessment of child support or domestic maintenance payable in relation to the days of a period of less than a full child support year, the Commissioner may apply this Act as if the beginning and end of the period were respectively the beginning and end of a full child support year.

Compare: Child Support (Assessment) Act 1989 s 71 (Aust)

Section 80: amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

81 Notification requirements of parent

(1) The Commissioner may, for the purposes of assessing the amount of child support payable under a formula assessment, by written notice given to a person who is a parent of a qualifying child, require that person—

(a) to notify the Commissioner, in writing, of information relating to that person's living circumstances; and

(b) where that person is a taxpayer who derives no income other than reportable income described in section 22D(3) of the Tax Administration Act 1994 in respect of the last relevant tax year, to either—

(i) supply a return of income for the last relevant tax year; or

(ii) supply an estimate of the income derived in the last relevant tax year; or

(iii) supply an estimate of the income expected to be derived in the child support year.

(2) Where the person supplies an estimate under subsection (1)(b)(iii), that person will be deemed to have made an election in terms of section 40.

(3) *[Repealed]*

Section 81 heading: amended, on 1 April 2015, by section 211 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section 81(1): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 81(1)(b): amended, on 1 April 2019, by section 324 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section 81(1)(b): amended, on 1 April 2016, by section 239 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section 81(1)(b): amended, on 1 April 2005 (effective for 2005–06 tax year and later), by section YA 2 of the Income Tax Act 2004 (2004 No 35).

Section 81(1)(b): amended (with effect on 1 April 1995, applying with respect to tax on income derived in 1995–96 and subsequent income years), on 10 May 1996, by section 55(1) of the Income Tax Act 1994 Amendment Act 1996 (1996 No 17).

Section 81(1)(b)(i): amended, on 1 April 2005 (effective for 2005–06 tax year and later), by section YA 2 of the Income Tax Act 2004 (2004 No 35).

Section 81(1)(b)(ii): amended, on 1 April 2005 (effective for 2005–06 tax year and later), by section YA 2 of the Income Tax Act 2004 (2004 No 35).

Section 81(2): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 81(3): repealed, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

81A Amendments of assessments arising from living circumstances existing at time when assessment begins

(1) This section applies if—

(a) the Commissioner made an assessment on the basis that certain living circumstances existed at the time when the assessment begins; and

(b) the recipient of the assessment advises the Commissioner—

(i) that those circumstances did not exist at that time; and

(ii) of the relevant living circumstances that did exist at that time; and

(c) section 82 does not apply.

(2) The Commissioner may backdate any amendment made under section 87 to the time when the assessment begins if the recipient of the assessment advises the Commissioner within the period of 28 days beginning with the date of the notice of assessment.

(3) The Commissioner may also backdate any amendment made under section 87 to the time when the assessment begins if the recipient of the assessment—

(a) is a liable parent, and the backdating has the effect of increasing the amount of the parent's child support liability:

(b) is a receiving carer, and the backdating has the effect of decreasing the amount of child support payable in respect of that carer.

(4) However, the Commissioner may only backdate any amendment made under section 87 to the time when the assessment begins if—

(a) the recipient has provided to the Commissioner such supporting documentation as the Commissioner requires; and

(b) the Commissioner is satisfied that—

(i) the assessment was made on the basis that certain living circumstances existed at the time when the assessment begins that did not in fact exist at that time; and

(ii) the relevant living circumstances advised by the recipient did exist at that time.

(5) Otherwise, an amendment of the assessment under section 87 is effective only from the date on which the recipient advises the Commissioner.

Section 81A: replaced (with effect on 26 October 2021), on 30 March 2022, by section 237 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

82 Parents and receiving carers to advise Commissioner of changes

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

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

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

(i) the person's appropriate living allowance:

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

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

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

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

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

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

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

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

(b) on the date on which the Commissioner receives notice of the change, in either of the following cases (unless paragraph (a)(iii) applies):

(i) in relation to a liable parent, where the change has the effect of decreasing the amount of the parent's child support liability:

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

(3) Every notification of a change must be accompanied by such documentation as the Commissioner requires.

(4) The Commissioner may disregard subsection (2), and may determine the date on which a particular change in living circumstances is to be treated as having occurred, in any case where 2 or more people give notice under this section relating to the same change, and the application of subsection (2) would result

in the same change having to be treated as having occurred on different days in relation to different people.

Section 82: replaced, on 1 April 2015, by section 15 of the Child Support Amendment Act 2013 (2013 No 12).

83 Evidence relating to assessments

(1) The production of a notice of assessment, or a document signed by the Commissioner or an officer of the Department that appears to be a copy of a notice of assessment, is conclusive evidence of the proper making of an assessment and, except in proceedings under sections 91 to 95, that all particulars of the notice of assessment are correct.

(2) The production of a document signed by the Commissioner or an officer of the Department that appears to be a copy of, or an extract from, any notice of assessment is evidence of the matters in the document to the same extent as the original would be if it were produced.

Compare: Child Support (Assessment) Act 1989 s 70 (Aust)

Section 83(1): amended, on 23 September 1997, by section 4(1) of the Child Support Amendment Act (No 3) 1997 (1997 No 76).

Section 83(2): amended, on 23 September 1997, by section 4(2) of the Child Support Amendment Act (No 3) 1997 (1997 No 76).

84 Validity of assessments

Except in an objection under sections 91 to 95, the validity of an assessment is not affected by reason that any of the provisions of this Act have not been complied with.

Compare: Child Support (Assessment) Act 1989 s 72 (Aust)

85 Assumptions as to future events

In assessing the annual rate at which child support or domestic maintenance is payable in relation to a day in the future, the Commissioner may act on the assumption that the state of affairs known to the Commissioner at the time the assessment is made will remain unchanged on that day.

Compare: Child Support (Assessment) Act 1989 s 73 (Aust)

Section 85: amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

86 Commissioner to give effect to changed circumstances

(1) Where child support is payable in respect of a qualifying child and the Commissioner is notified, or otherwise becomes aware,—

(a) that the liability of a liable parent to pay child support to a carer in respect of the child has ceased in accordance with section 25 or 62; or

(b) that an event or change of circumstances has occurred that alters the respective liability or entitlement of any parent or carer of the qualifying child,—

the Commissioner shall, as soon as practicable, take such action as is necessary to take account of the event or change in circumstances (whether by amending any assessment or otherwise).

(2) Where domestic maintenance is payable by a liable spouse or partner under a voluntary agreement or an order of the court and either—

(a) payment is to cease, or the rate of payment is to reduce, on a particular day in accordance with that agreement or order; or

(b) the Commissioner is notified, or otherwise becomes aware,—

(i) of the death of either party to the agreement; or

(ii) that an event or change of circumstances has occurred that affects the annual rate at which domestic maintenance is payable under this Act,—

the Commissioner shall, as soon as practicable, take such action as is necessary to take account of the event or change in circumstances (whether by amending any assessment or otherwise).

(3) Nothing in subsection (1) or subsection (2) is to be taken to prevent the Commissioner from taking such action as the Commissioner considers appropriate to take account of the likely occurrence of an event or change of circumstances of which the Commissioner is notified or otherwise becomes aware (whether by amending any assessment or otherwise).

Compare: Child Support (Assessment) Act 1989 s 74 (Aust)

Section 86(1)(a): replaced, on 1 April 2015, by section 16 of the Child Support Amendment Act 2013 (2013 No 12).

Section 86(1)(b): replaced, on 1 April 2015, by section 16 of the Child Support Amendment Act 2013 (2013 No 12).

Section 86(2): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 86(2)(b)(ii): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

87 Amendment of assessments

(1) The Commissioner may, at any time, amend any assessment by making such alterations and additions as the Commissioner considers necessary to give effect to this Act.

(2) Subsection (1) has effect despite the fact that—

(a) child support or, as the case may be, domestic maintenance has been paid under the assessment; or

(b) the child support year, or the part of the child support year, to which the assessment relates has ended; or

(c) proceedings are pending in a court having jurisdiction under this Act against or in relation to the assessment.

(3) Without limiting subsection (1), the Commissioner may amend any assessment for the purpose of—

(a) correcting any error or mistake (whether or not made by the Commissioner); or

(b) correcting the effect of any false or misleading statement made to the Commissioner; or

(c) giving effect to the happening of an event or change of circumstances to which the provisions of section 86 apply; or

(d) giving effect to a formula assessment of child support by the Commissioner; or

(da) giving effect to Part 5A; or

(e) giving effect to the acceptance of a voluntary agreement by the Commissioner; or

(ea) giving effect to a determination of the Commissioner under Part 6A or 6B; or

(f) giving effect to a decision or order of a court under Part 7.

(4) Where a provision of this Act expressly authorises the Commissioner to amend an assessment, that provision does not by implication limit the power of the Commissioner (whether under this section or otherwise) to amend the assessment.

(5) Except as otherwise expressly provided in this Act, every amended assessment is to be taken to be an assessment for all the purposes of this Act.

(6) In any case where—

(a) child support or domestic maintenance payable under an amended assessment is increased after the due date; and

(b) the Commissioner is satisfied that the matter giving rise to the increase did not result from any neglect or default by the person who is required to pay that child support or that domestic maintenance under the amended assessment,—

that person—

(c) shall pay by the due date the amount that would have been payable if the increase had not taken effect; and

(d) shall pay the amount of the increase within 30 days after the date of the amended assessment,—

and the Commissioner shall fix that date as the new due date for payment.

(7) This section is subject to section 87A.

Compare: Child Support (Assessment) Act 1989 s 75 (Aust)

Section 87(2)(a): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 87(3)(d): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 87(3)(da): inserted, on 26 September 2006, by section 16(1) of the Child Support Amendment Act 2006 (2006 No 42).

Section 87(3)(ea): inserted (with effect on 1 July 1994), on 15 July 1994, by section 6(1) of the Child Support Amendment Act 1994 (1994 No 74).

Section 87(3)(ea): amended, on 26 September 2006, by section 16(2) of the Child Support Amendment Act 2006 (2006 No 42).

Section 87(6)(a): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 87(6)(b): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 87(7): inserted, on 26 October 2021, by section 19 of the Child Support Amendment Act 2021 (2021 No 6).

87A Four-year time bar for amendment of certain assessments

(1) Despite section 87, the Commissioner may amend an assessment only—

(a) before the expiry of the fourth child support year after the end of the child support year to which the assessment relates; or

(b) as a result of information or an application that was received by the Commissioner before the expiry of that fourth child support year; or

(c) if an exception in subsection (2) or (3) applies.

(2) An exception applies if—

(a) the Commissioner is of the opinion that information provided by a person is fraudulent or wilfully misleading; or

(b) the Commissioner is of the opinion that information provided by a person does not mention income that is of a particular nature, or that was derived from a particular source, and in respect of which information is required to be provided; or

(c) an amended assessment is required to give effect to a decision, determination, or exemption made under Part 5A (which relates to exemptions for hospital patients, persons suffering from long-term periods of illness, prisoners, persons under 16 years, and victims of sex offences).

(3) An exception also applies if—

(a) a liable person, child, or payee to whom the assessment relates has died; or

(b) a person is not a parent of the child; or

(c) reassessment is necessary to avoid double liability of a liable person who has paid, or is liable to pay, financial support in an overseas jurisdiction in respect of the same child or payee and period; or

(d) a court order is received that applies to an earlier period; or

(e) a new assessment is made in relation to a qualifying child (for example, because a paternity order is provided) and it results in a reassessment of an existing child support assessment in relation to another qualifying child or children; or

(f) the Commissioner did not meet the requirements of section 88 (which relates to notice of assessment) or section 89 (which relates to notification); or

(g) the Commissioner has made a determination under Part 6A in relation to an application under section 96B to which the 4-month time limit in section 96BA applies.

(4) This section does not otherwise restrict rights in respect of review, objection, or appeal under other Parts of this Act.

Compare: 1994 No 166 s 108

Section 87A: inserted, on 26 October 2021, by section 20 of the Child Support Amendment Act 2021 (2021 No 6).

Section 87A(1)(a): amended (with effect on 26 October 2021), on 30 March 2022, by section 238(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section 87A(2)(c): replaced (with effect on 26 October 2021), on 28 March 2024, by section 173 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section 87A(3)(c): amended (with effect on 26 October 2021), on 30 March 2022, by section 238(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section 87A(3)(f): amended (with effect on 26 October 2021), on 30 March 2022, by section 238(3) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section 87A(3)(g): inserted (with effect on 26 October 2021), on 30 March 2022, by section 238(4) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

88 Notice of assessment of formula assessment of child support

(1) The Commissioner must give written notice (a **notice of assessment**) to each parent and receiving carer of a qualifying child—

(a) as soon as practicable after making an assessment under section 29; and

(b) after making any assessment that changes—

(i) the amount of child support payable by a liable parent in respect of the child; or

(ii) the respective amounts payable in respect of different receiving carers; and

(c) at the beginning of each later child support year.

(2) As a minimum, the notice of assessment must set out, in relation to each qualifying child to whom the notice relates, the matters identified in section 88A so far as they are relevant to the assessment as it applies in respect of the child.

(2A) However, in no case may a notice of assessment reveal any more detail about another person who is a parent or carer than the person's name (subject to subsection (5)) and, in relation to a qualifying child, the person's proportion of care and care cost percentage.

(3) Without limiting subsection (2), the notice of assessment must contain sufficient information to enable the recipient to exercise his or her rights to object under section 90 or 91.

(3A) Any notice of assessment to which section 81A(2) could apply must specifically draw the attention of the recipient to the 28-day time limit for advising the Commissioner of any living circumstances that existed at the time when the assessment begins but that appear not to have been taken into account by the Commissioner.

(4) The notice must also include, or be accompanied by, statements that specifically draw to the attention of the recipient the recipient's right to—

(a) object under section 90 or 91 if he or she is aggrieved by any of the particulars of the assessment; and

(b) apply to the Commissioner under Part 6A; and

(c) apply to the Family Court under Part 7.

(5) Despite anything in this section, the Commissioner may omit from a notice of assessment or any related communication the name of any parent or carer if—

(a) he or she is satisfied that revealing the name to the recipient of the notice would be prejudicial to the safety of any parent, carer, or child; or

(b) the parent is deceased, or is a parent in respect of whom an assessment has not been made.

Section 88: replaced, on 1 April 2015, by section 17 of the Child Support Amendment Act 2013 (2013 No 12).

Section 88(2): replaced, on 25 February 2016, by section 25 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 88(2A): inserted, on 25 February 2016, by section 25 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 88(3A): inserted, on 26 October 2021, by section 21 of the Child Support Amendment Act 2021 (2021 No 6).

Section 88(3A): amended (with effect on 26 October 2021), on 30 March 2022, by section 239 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section 88(4)(c): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

88A Details in notices of assessments

(1) The matters referred to in section 88(2) for a notice of assessment given to a liable parent are as follows:

(a) the child's first names and date of birth:

(b) the names of the child's other parent (subject to section 88(5)):

(c) the names of any non-parent receiving carers of the child (subject to section 88(5)):

(d) the proportion of ongoing daily care that the Commissioner has established (under section 14) that the liable parent provides to the child:

(e) the care cost percentage of the liable parent in relation to the child, as determined under section 16:

(f) the liable parent's adjusted income or such other details as the Commissioner considers appropriate of any income of the liable parent taken into account in making the assessment:

(g) the first names and date of birth of every dependent child (as defined in section 35B(3)) of the liable parent and the sum of any dependent child allowances to which the liable parent is entitled:

(h) the amount of any multi-group allowance to which the liable parent is entitled:

(i) the liable parent's child support income amount in relation to the child:

(j) the combined child support income amounts of the liable parent and the child's other parent, in relation to the child:

(k) the liable parent's income percentage in relation to the child.

(2) The matters referred to in section 88(2) for a notice of assessment given to a parent of a child who is a receiving carer are as follows:

(a) the child's first names and date of birth:

(b) the names of the child's liable parent or parents, and of any other parents (subject to section 88(5)):

(c) the names of any non-parent receiving carers of the child (subject to section 88(5):

(d) the proportion of ongoing daily care that the Commissioner has established (under section 14) that the parent provides to the child:

(e) the care cost percentage of the parent in relation to the child, as determined under section 16:

(f) the parent's adjusted income or such other details as the Commissioner considers appropriate of any income of the parent taken into account in making the assessment:

(g) the first names and date of birth of every dependent child (as defined in section 35B(3)) of the parent and the sum of any dependent child allowances to which the parent is entitled:

(h) the amount of any multi-group allowance to which the parent is entitled:

(i) the parent's child support income amount in relation to the child:

(j) the combined child support income amounts of the parent and all the child's other parents in relation to the child:

(k) the parent's income percentage in relation to the child.

(3) The matters referred to in section 88(2) for a notice of assessment given to a non-parent receiving carer of a child are as follows:

(a) the child's first names and date of birth:

(b) the names of the child's liable parent or parents, and any other parent (subject to section 88(5)):

(c) the names of any other non-parent receiving carers of the child (subject to section 88(5)):

(d) the proportion of ongoing daily care that the Commissioner has established (under section 14) that the carer provides to the child:

(e) the care cost percentage of the carer in relation to the child, as determined under section 16:

(f) the expenditure on each child for whom the carer provides care, as determined by the relevant child expenditure table:

(g) the amount of child support payable by the child's liable parents in respect of the carer.

Section 88A: inserted, on 1 April 2015, by section 17 of the Child Support Amendment Act 2013 (2013 No 12).

Section 88A(1): amended, on 25 February 2016, by section 26(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 88A(1)(f): amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 88A(1)(f): amended, on 25 February 2016, by section 26(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 88A(1)(g): amended, on 25 February 2016, by section 26(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 88A(2): amended, on 25 February 2016, by section 26(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 88A(2)(f): amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 88A(2)(f): amended, on 25 February 2016, by section 26(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 88A(2)(g): amended, on 25 February 2016, by section 26(6) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 88A(3): amended, on 25 February 2016, by section 26(7) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

89 Notification by Commissioner to other payers and payees

(1) The Commissioner must give written notice under this section to every person who is required under this Act to make payments, and every person entitled under this Act to receive payments, of—

(a) domestic maintenance; or

(b) child support under a voluntary agreement; or

(c) child support under a court order.

(2) The notice must set out—

(a) the amount of domestic maintenance or child support payable; and

(b) the name of the payer and the payee; and

(c) in the case only of a notice relating to child support, the name of each child in respect of whom payment is to be made.

(3) The notice must be given—

(a) as soon as practicable after determining the amount payable in respect of a child support year; and

(b) after making any assessment that changes the amount payable.

(4) The notice must contain sufficient information to enable the recipient to exercise his or her rights to object under section 90 or 91.

(5) The notice must also include, or be accompanied by, statements that specifically draw to the attention of the recipient his or her right to—

(a) object under section 90 or 91 if he or she is aggrieved by any of the particulars of the assessment; and

(b) apply to the Family Court under Part 7.

Section 89: replaced, on 1 April 2015, by section 17 of the Child Support Amendment Act 2013 (2013 No 12).

Section 89(5)(b): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Part 5A
Exemptions

Part 5A: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

Subpart 1—Outline and definitions

Subpart 1: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

89A Outline

(1) This Part provides for exemptions from the payment of financial support in the following cases:

(a) for hospital patients, in respect of periods of long-term hospitalisation, if certain income criteria are met:

(aa) for persons suffering from long-term periods of illness, if certain income criteria are met:

(b) for prisoners, in respect of periods of long-term imprisonment, if certain income criteria are met:

(c) for liable parents under the age of 16 years, if certain income criteria are met:

(d) for victims of sex offences, regardless of income.

(2) This Part also allows the Commissioner to make determinations in relation to exemptions granted under this Act (except exemptions for victims of sex offences).

(3) This section is intended only as a guide to the general scheme and effect of this Part.

Section 89A: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

Section 89A(1)(aa): inserted, on 26 October 2021, by section 22 of the Child Support Amendment Act 2021 (2021 No 6).

89B Definitions for this Part

In this Part, unless the context otherwise requires,—

exempted person means a person who has, under this Part, been exempted from the payment of financial support

hospital patient means a person who is, for the time being,—

(a) a patient in a hospital care institution within the meaning of section 58(4) of the Health and Disability Services (Safety) Act 2001; or

(b) a resident in a treatment centre within the meaning of the Substance Addiction (Compulsory Assessment and Treatment) Act 2017; or

(c) a person in an overseas jurisdiction who is equivalent to a patient referred to in paragraph (a) or to a resident referred to in paragraph (b)

income—

(a) has the same meaning as in section YA 1 of the Income Tax Act 2007; and

(b) includes gross income (within the meaning of section OB 1 of the Income Tax Act 1994 and the Income Tax Act 2004) and assessable income (within the meaning of the Income Tax Act 1976)

long-term means a period of 13 weeks or more

period of hospitalisation—

(a) means the continuous period during which a person is a hospital patient; and

(b) includes any lawful absence of the person from the hospital for not more than 7 days, or any other period that is, in the opinion of the Commissioner, reasonable in the circumstances of the case

period of illness means the continuous period during which a person is suffering from an illness or injury

period of imprisonment—

(a) means the continuous period during which a person is a prisoner; and

(b) includes any lawful absence of the person from the prison for not more than 7 days, or any other period that is, in the opinion of the Commissioner, reasonable in the circumstances of the case

prisoner means a person who is, for the time being,—

(a) in the legal custody of the Superintendent of any penal institution as defined in the Penal Institutions Act 1954; or

(b) in legal custody under the Corrections Act 2004; or

(c) in legal custody in an overseas jurisdiction that is equivalent to legal custody referred to in paragraph (a) or (b)

relevant minimum annual rate of financial support means, in relation to a child support year,—

(a) for an exemption from child support payable under a formula assessment or under an order under section 109, the minimum annual rate for that year under section 72(1)(a):

(b) for an exemption from any other child support payable under this Act or from domestic maintenance, $520

Section 89B: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

Section 89B **hospital patient** paragraph (b): replaced, on 1 April 2021, by section 23(1) of the Child Support Amendment Act 2021 (2021 No 6).

Section 89B **hospital patient** paragraph (c): inserted, on 26 October 2021, by section 23(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 89B **income** paragraph (a): amended, on 1 April 2008 (effective for 2008–09 income year and later), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Section 89B **income** paragraph (b): amended, on 1 April 2008 (effective for 2008–09 income year and later), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Section 89B **period of illness**: inserted, on 26 October 2021, by section 23(3) of the Child Support Amendment Act 2021 (2021 No 6).

Section 89B **prisoner** paragraph (c): inserted, on 26 October 2021, by section 23(4) of the Child Support Amendment Act 2021 (2021 No 6).

Section 89B **social security benefit**: repealed, on 1 July 2023, by section 10 of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

Subpart 2—Exemptions for hospital patients, persons suffering from long-term periods of illness, prisoners, and persons under 16 years

Subpart 2: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

Subpart 2 heading: amended, on 26 October 2021, by section 24 of the Child Support Amendment Act 2021 (2021 No 6).

Exemption for hospital patients and persons suffering from long-term periods of illness

Heading: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

Heading: amended, on 26 October 2021, by section 25 of the Child Support Amendment Act 2021 (2021 No 6).

89C Exemption for long-term hospital patients

(1) A liable person is eligible for an exemption from the payment of financial support for the whole, or part, of a long-term period of hospitalisation of that person if—

(a) the person's income for that whole period, or that part, will be or was nil, or will be or was calculated only from income consisting solely of—

(i) income from investments; or

(ii) a social security benefit payable to the person at the rate specified in Part 12 of Schedule 4 of the Social Security Act 2018 as payable to long-term hospital patients or an equivalent benefit in an overseas jurisdiction; and

(b) the person's income from investments (if any) during that whole period, or that part, did not or will not—

(i) exceed an average amount per week in that whole period, or that part, that is equal to the relevant minimum annual rate of financial support, divided by 52; and

(ii) if that whole period, or that part, is 1 or more full child support years in duration, exceed, in a child support year in that whole period or that part, the relevant minimum annual rate of financial support; and

(c) the person applies for the exemption in accordance with section 89H.

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

(2) This section is subject to sections 89F and 89G.

Section 89C: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

Section 89C(1)(a)(ii): amended, on 26 October 2021, by section 26 of the Child Support Amendment Act 2021 (2021 No 6).

Section 89C(1)(a)(ii): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section 89C(1A): inserted, on 1 April 2014, by section 18 of the Child Support Amendment Act 2013 (2013 No 12).

89CA Exemption for persons suffering from long-term periods of illness

(1) A liable person is eligible for an exemption from the payment of financial support for the whole, or a part, of a long-term period of illness of that person if—

(a) the person's income for that whole period, or that part, will be, or was, nil or will be, or was, calculated only from income consisting solely of income from investments; and

(b) the person's income from investments (if any) during that whole period, or that part, did not, or will not,—

(i) exceed an average amount per week in that whole period, or that part, that is equal to the relevant minimum annual rate of financial support, divided by 52; and

(ii) if that whole period, or that part, is 1 or more full child support years in duration, exceed, in a child support year in that whole period, or that part, the relevant minimum annual rate of financial support; and

(c) the long-term period of illness results in the person being unable to engage in paid work; and

(d) the person applies for the exemption in accordance with section 89H.

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

(3) This section is subject to sections 89F and 89G.

Section 89CA: inserted, on 26 October 2021, by section 27 of the Child Support Amendment Act 2021 (2021 No 6).

Exemption for prisoners

Heading: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

89D Exemption for long-term prisoners

(1) A liable person is eligible for an exemption from the payment of financial support for the whole, or part, of a long-term period of imprisonment of that person if—

(a) the person's income for the whole period, or that part, will be or was nil or will include or included no income other than income from—

(i) investments:

(ii) employment under section 66 of the Corrections Act 2004 or equivalent employment in an overseas jurisdiction; and

(b) the person's income from investments (if any) during that whole period, or that part, did not or will not—

(i) exceed an average amount per week in that whole period, or that part, that is equal to the relevant minimum annual rate of financial support, divided by 52; and

(ii) if that whole period, or that part, is 1 or more full child support years in duration, exceed, in a child support year in that whole period or that part, the relevant minimum annual rate of financial support; and

(c) the person applies for the exemption in accordance with section 89H.

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

(2) This section is subject to sections 89F and 89G.

Section 89D: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

Section 89D(1)(a): replaced (with effect on 1 April 2017), on 29 March 2018, by section 404 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section 89D(1)(a)(ii): amended, on 26 October 2021, by section 28 of the Child Support Amendment Act 2021 (2021 No 6).

Section 89D(1A): inserted, on 1 April 2014, by section 19 of the Child Support Amendment Act 2013 (2013 No 12).

Exemption for persons under 16 years

Heading: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

89E Exemption for persons under 16 years

(1) A liable parent is eligible for an exemption from the payment of child support for the whole, or part, of the period before that person turned or turns 16 if—

(a) the person's income for that whole period, or that part, will be or was nil, or will be or was calculated only from income consisting solely of income from investments; and

(b) the person's income from investments (if any) during that whole period, or that part, did not or will not—

(i) exceed an average amount per week in that whole period, or that part, that is equal to the relevant minimum annual rate of financial support, divided by 52; and

(ii) if that whole period, or that part, is 1 or more full child support years in duration, exceed, in a child support year in that whole

period or that part, the relevant minimum annual rate of financial support; and

(c) the person applies for the exemption in accordance with section 89H.

(2) This section is subject to sections 89F and 89G.

Section 89E: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

Restrictions on application of exemptions

Heading: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

89F Exemption does not apply at any time during child support year if income criteria not met at any time during relevant period

(1) An exemption under this subpart does not apply at any time during the whole of a child support year if,—

(a) at any time during the relevant period,—

(i) in the case of an exemption under section 89C, the person receives any income (subject to section 89C(1A)) other than from investments or a social security benefit payable at the rate specified in Part 12 of Schedule 4 of the Social Security Act 2018 or an equivalent benefit in an overseas jurisdiction as payable to long-term hospital patients; or

(ia) in the case of an exemption under section 89CA, the person receives any income (subject to section 89CA(2)) other than from investments; or

(ii) in the case of an exemption under section 89D or 89E, the person receives any income (subject to section 89D(1A)) other than from investments or from employment under section 66 of the Corrections Act 2004 or equivalent employment in an overseas jurisdiction; or

(b) the person receives income from investments during the relevant period that—

(i) exceeds, if the relevant period is less than a full child support year in duration, an average amount per week in the relevant period that is equal to the relevant minimum annual rate of financial support, divided by 52; or

(ii) exceeds, if the relevant period is a full child support year in duration, the relevant minimum annual rate of financial support.

(2) However, in the case of an exemption under section 89C, if a liable person is receiving a higher rate benefit at the start of that person's hospitalisation, that benefit does not prevent the exemption from applying after the person stops

receiving that benefit for the whole or a part of the rest of the child support year in which that person became a hospital patient.

(2A) Also, in the case of an exemption under section 89CA, if a liable person is receiving a benefit at the start of that person's period of illness, that benefit does not prevent the exemption from applying after the person stops receiving that benefit for the whole, or a part of, the rest of the child support year in which that exemption applies.

(3) For the purposes of this section,—

higher rate benefit means a social security benefit payable at a rate higher than the rate specified in Part 12 of Schedule 4 of the Social Security Act 2018 as payable to long-term hospital patients

relevant period, in relation to a child support year,—

(a) in the case of an exemption under section 89C, means the period of hospitalisation that is in the child support year and during which the person would, but for an exemption under this subpart, be liable to pay financial support; and

(aa) in the case of an exemption under section 89CA, means the period of illness that is in the child support year and during which the person would, but for an exemption under this subpart, be liable to pay financial support; and

(b) in the case of an exemption under section 89D, means the period of imprisonment that is in the child support year and during which the person would, but for an exemption under this subpart, be liable to pay financial support; and

(c) in the case of an exemption under section 89E, means the period before the person turns 16 that is in the child support year and during which the person would, but for an exemption under this subpart, be liable to pay child support.

Section 89F: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

Section 89F(1)(a)(i): amended, on 26 October 2021, by section 29(1) of the Child Support Amendment Act 2021 (2021 No 6).

Section 89F(1)(a)(i): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section 89F(1)(a)(i): amended, on 1 April 2014, by section 19A(1) of the Child Support Amendment Act 2013 (2013 No 12).

Section 89F(1)(a)(ia): inserted, on 26 October 2021, by section 29(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 89F(1)(a)(ii): replaced, on 26 October 2021, by section 29(3) of the Child Support Amendment Act 2021 (2021 No 6).

Section 89F(2A): inserted, on 26 October 2021, by section 29(4) of the Child Support Amendment Act 2021 (2021 No 6).

Section 89F(3) **higher rate benefit**: amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section 89F(3) **relevant period** paragraph (aa): inserted, on 26 October 2021, by section 29(5) of the Child Support Amendment Act 2021 (2021 No 6).

89G Other restrictions on application of exemptions

(1) An exemption under this subpart does not apply at any time after—

(a) the day on which the relevant period of hospitalisation ends (in the case of an exemption under section 89C):

(aa) the day on which the relevant period of illness ends (in the case of an exemption under section 89CA):

(b) the day on which the relevant period of imprisonment ends (in the case of an exemption under section 89D):

(c) the day on which the person turns 16 (in the case of an exemption under section 89E).

(2) An exemption under this subpart does not apply to a period if the liable person is not eligible, or ceases to be eligible, for that exemption in relation to that period.

(3) If an application for an exemption under—

(a) section 89C is made under section 89H after the day on which the relevant period of hospitalisation ends, the exemption does not apply at any time before the commencement of this section:

(aa) section 89CA is made under section 89H after the day on which the relevant period of illness ends, the exemption does not apply at any time before the commencement of this paragraph:

(b) section 89E is made under section 89H after the day on which the person turns 16, the exemption does not apply at any time before the commencement of this section.

Section 89G: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

Section 89G(1)(aa): inserted, on 26 October 2021, by section 30(1) of the Child Support Amendment Act 2021 (2021 No 6).

Section 89G(3)(aa): inserted, on 26 October 2021, by section 30(2) of the Child Support Amendment Act 2021 (2021 No 6).

Application and grant of exemptions under this subpart

Heading: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

89H Applications for exemptions under this subpart

(1) An application for an exemption under this subpart must—

(a) be in the appropriate approved form; and

(b) be given to the Commissioner before—

(i) the expiry of 3 months after the day on which the relevant period of hospitalisation ends (in the case of an application for an exemption under section 89C); or

(ia) the expiry of 3 months after the day on which the relevant period of illness ends (in the case of an application for an exemption under section 89CA); or

(ii) the relevant period of imprisonment ends (in the case of an application for an exemption under section 89D); or

(iii) the expiry of 3 months after the day on which the person turns 16 (in the case of an application for an exemption under section 89E); and

(c) specify the person's estimate of his or her weekly and total income for the periods specified on the form; and

(ca) in the case of an application for an exemption under section 89CA, include evidence, as reasonably required by the Commissioner, to satisfy the Commissioner that, during the period to which the application relates, the applicant—

(i) has a long-term period of illness; and

(ii) is unable to engage in paid work as a result of the long-term period of illness; and

(d) include the information that the approved form requires to be included.

(2) An application for an exemption under—

(a) section 89C may be made in relation to the whole of the long-term period of hospitalisation or 1 or more parts of that whole period:

(aa) section 89CA may be made in relation to the whole of the long-term period of illness or 1 or more parts of that whole period:

(b) section 89D may be made in relation to the whole of the long-term period of imprisonment or 1 or more parts of that whole period:

(c) section 89E may be made in relation to the whole of the period before the person turns 16 or 1 or more parts of that whole period.

Section 89H: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

Section 89H(1)(b)(ia): inserted, on 26 October 2021, by section 31(1) of the Child Support Amendment Act 2021 (2021 No 6).

Section 89H(1)(ca): replaced (with effect on 26 October 2021), on 30 March 2022, by section 240 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section 89H(2)(aa): inserted, on 26 October 2021, by section 31(3) of the Child Support Amendment Act 2021 (2021 No 6).

89I Grant of exemption under this subpart

(1) The Commissioner must, as soon as practicable after receiving an application for an exemption under this subpart in respect of a liable person, exempt the person from the payment of financial support under this Act for a period or periods if the Commissioner is satisfied that—

(a) the application is made in accordance with section 89H; and

(b) the estimates of income provided with the application are fair and reasonable; and

(c) the person is eligible for an exemption under this subpart in relation to that period or those periods; and

(d) the exemption is not prevented from applying to that period or those periods in accordance with section 89F or 89G.

(2) In deciding under subsection (1) whether to grant an exemption to a person in relation to a future period, the Commissioner may act on the basis—

(a) that the person's income in that future period will be in accordance with the estimates provided in or with the application if the Commissioner is satisfied that the estimates are fair and reasonable; and

(b) of any other assumptions as to future events that, in the opinion of the Commissioner, are reasonable in the circumstances of the case.

Section 89I: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

89J Exempted person not entitled to refund

(1) In this section, **exemption excess** means any amount of financial support paid to the Commissioner in relation to a person's liability for a period or periods for which the person has been granted an exemption under this subpart.

(2) A person who has been granted an exemption under this subpart—

(a) is not entitled to a refund of the exemption excess; and

(b) is not entitled to recover the exemption excess from the payee under section 207.

(3) Nothing in sections 216 to 216D applies in relation to the exemption excess.

(4) The Commissioner must, as soon as practicable after granting an exemption under this subpart, take the action that is necessary to—

(a) give effect to subsection (2)(a); and

(b) ensure that a refund of the exemption excess is not paid, and does not become payable, to the person concerned.

(5) The Commissioner's power to take action under subsection (4) includes, without limitation, the power to do any of the following:

(a) apply the exemption excess (in whole or in part) to any unpaid financial support, unpaid penalty, or other charge imposed under this Act in relation to the person concerned:

(b) hold the exemption excess (in whole or in part) and apply the amount held at some future time to a liability of the person concerned to make further payments of financial support:

(c) amend any assessment.

Section 89J: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

Subpart 3—Determinations in relation to exemptions for hospital patients, persons suffering from long-term periods of illness, prisoners, and persons under 16 years

Subpart 3: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

Subpart 3 heading: amended, on 26 October 2021, by section 32 of the Child Support Amendment Act 2021 (2021 No 6).

89K Commissioner may make determinations in relation to exemptions

(1) The Commissioner may, in accordance with this subpart, make a determination having the effect that a specified exemption does not apply, or ceases to apply, in relation to the whole or a part of a period for which it was granted.

(2) The Commissioner may, in accordance with this subpart, make a determination having the effect that all or some of the provisions of this Act relating to formula assessment of child support will be departed from in relation to a child if the Commissioner has made, or intends to make, a determination under subsection (1).

(3) For the purposes of this subpart, **specified exemption** means—

(a) an exemption granted under subpart 2:

(b) an exemption granted under section 74 (as in force immediately before the commencement of this section).

Section 89K: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

89L Application for determination

(1) A payee may, by written application, ask the Commissioner to make a determination under this subpart.

(2) An application under this section must set out the grounds on which the application is made.

(3) The parties to the application are the liable person and the payee.

(4) The determinations that the Commissioner may make under this subpart are not limited by the terms of the application.

Section 89L: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

Section 89L(4): inserted, on 25 February 2016, by section 27 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

89M Determination that exemption does not apply or ceases to apply or determination confirming exemption

(1) Subject to this subpart, the Commissioner may make a determination that a specified exemption does not apply, or ceases to apply, in relation to the whole or a part of a period for which it was granted if—

(a) an application is made to the Commissioner under section 89L; and

(b) the Commissioner is satisfied that the application in relation to the payee, the child, or both of the provisions of this Act relating to that exemption would result in an unjust and inequitable determination of the level of financial support to be provided by the liable person because of the income, earning capacity, property, and financial resources of the liable person.

(2) If the Commissioner makes a determination under subsection (1) that a specified exemption does not apply, or ceases to apply, in relation to the whole or a part of a period for which it was granted, the liable person is liable to pay in relation to that whole or part of a period—

(a) the amount of financial support that would otherwise have been payable but for the granting of the specified exemption; or

(b) the amount of financial support determined in accordance with section 89N.

(3) The following provisions apply, with necessary modifications, as if a determination under subsection (1) were an order:

(a) section 106(4) (which relates to the period of time in which orders apply or when orders terminate):

(b) section 107 (which relates to implementation of orders):

(c) section 119(1)(a) (which relates to the cessation of orders).

(4) The Commissioner may make a determination confirming that the specified exemption continues to apply to the whole or a part of a period for which it was granted if the Commissioner does not make a determination under subsection (1) in relation to that whole or part of a period.

Section 89M: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

89N Determination that provisions of Act relating to formula assessment of child support will be departed from

(1) Subject to this subpart, the Commissioner may make a determination that all or some of the provisions of this Act relating to formula assessment of child support will be departed from in relation to a child if—

(a) the Commissioner has made, or intends to make, a determination under section 89M; and

(b) the Commissioner is satisfied that—

(i) the application in relation to the receiving carer, the child, or both of the provisions of this Act relating to formula assessment of child support would result in an unjust and inequitable determination of the level of financial support to be provided by the liable parent for the child because of the income, earning capacity, property, and financial resources of the liable parent; and

(ii) a determination under this section would be—

(A) just and equitable as regards the child, the receiving carer, and the liable parent; and

(B) otherwise proper.

(2) Section 105(4) to (6) applies to the Commissioner in the exercise of his or her powers under this section as if—

(a) any reference in those subsections to the court were a reference to the Commissioner; and

(b) any reference in those subsections to an order were a reference to a determination under this section.

(3) The Commissioner may make as a determination under this section any decision that the court could make as an order under section 106(1), and the following provisions apply, with necessary modifications, as if a determination under this section were an order:

(a) section 98 (which sets the minimum liability in respect of child support):

(b) section 106(2) to (4) (which relates to the orders that may be made):

(c) section 107 (which relates to implementation of orders):

(d) section 119(1)(a) (which relates to the cessation of orders).

Section 89N: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

Section 89N(1)(b)(i): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 89N(1)(b)(ii)(A): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

89O Reasons for determination

(1) The Commissioner must give all parties, in writing, the reasons for making a determination under this subpart.

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

Section 89O: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

Section 89O(1): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

89P Commissioner may refuse to make determination because issues too complex

(1) If the Commissioner is satisfied, at any time after considering an application under this subpart, that the issues raised by the application are too complex to be dealt with under this subpart, the Commissioner may refuse to make the determination without taking any further action under this subpart.

(2) The Commissioner must give the applicant, in writing, the reasons for refusing to make the determination.

Section 89P: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

89Q Application disclosing no grounds for making determination: how dealt with

(1) If the Commissioner is satisfied, after considering an application under this subpart, that there are no grounds for making a determination under this subpart, the Commissioner may refuse to make the determination without taking any further action under this subpart.

(2) The Commissioner must give the applicant, in writing, the reasons for refusing to make the determination.

Section 89Q: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

89R Other party to be notified

(1) The Commissioner must notify the other party to the application under this subpart—

(a) that an application has been made; and

(b) that he or she may request a copy of the application and any accompanying documentation from the Commissioner; and

(c) that he or she may make any representation (in this subpart called a **reply**) regarding the application that he or she considers relevant.

(2) Any reply to an application must—

(a) be in writing; and

(b) be filed with the Commissioner—

(i) within 14 days after the date on which the copy of the application and accompanying documentation is sent to the other party; or

(ii) if no request is made for a copy of the application, within 14 days after the date on which the notification is sent.

(3) The Commissioner must send a copy of the reply and any accompanying documentation to the applicant.

(4) Nothing in this section applies if the Commissioner refuses to make a determination under section 89P, 89Q, or 89U.

Section 89R: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

89S Procedure for dealing with application

(1) In making a decision under this subpart in relation to an application, the Commissioner—

(a) may act on the basis of the application and the reply (if any) and any other information in the Commissioner's possession; and

(b) may, but (subject to subsection (2)) is not required to, conduct any enquiries or investigations into the matter.

(2) The Commissioner must give an opportunity to the applicant and the other party to the application to be heard by the Commissioner if they so wish.

(3) Nothing in subsection (2)—

(a) empowers the Commissioner to compel a party to an application to appear before the Commissioner in the presence of the other party; or

(b) applies if the Commissioner refuses to make a determination under section 89P, 89Q, or 89U.

(4) Despite subsection (2), if the other party to the application fails to file a reply or does not file a reply within the prescribed time, the Commissioner may refuse to hear that party.

(5) Any hearing before the Commissioner, and any enquiry or investigation carried out by the Commissioner, is to be carried out as the Commissioner thinks fit and the Commissioner is not bound by any rules of evidence.

(6) Nothing in section 125 (which relates to intervention in proceedings) applies to proceedings under this subpart.

Section 89S: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

89T Circumstances in which representation or assistance at hearing may be approved

(1) The following parties may be represented by a representative who is approved by the Commissioner:

(a) the liable person:

(b) the Crown, if the representative is an officer or employee of the Crown:

(c) a minor, or other person under disability:

(d) any other person, if the Commissioner is satisfied that for sufficient cause that person is unable to appear in person or is unable to present his or her case adequately.

(2) No other party is entitled to be represented at a hearing by a representative unless it appears to the Commissioner to be proper in all the circumstances to so allow, and the Commissioner approves the representative.

(3) No person proposed as a party's representative may be approved unless the Commissioner is satisfied that the person proposed has sufficient knowledge of the case and sufficient authority to bind the party.

(4) The Commissioner may permit any person nominated by a party to be present at the hearing and to assist the party in the presentation of his or her case if it appears to the Commissioner to be proper in all the circumstances to so permit, and the Commissioner approves the person.

(5) No person approved by the Commissioner under subsection (4) is entitled to be heard at the hearing, and the Commissioner may exclude the person from the hearing at any time.

(6) The Commissioner must not approve as a representative under subsection (1) or (2), or approve under subsection (4), any person who is, or has been, enrolled as a barrister and solicitor or who, in the opinion of the Commissioner, is or has been, regularly engaged in advocacy work before other tribunals.

(7) If the Commissioner approves any person under subsection (1), (2), or (4), the Commissioner may impose in respect of the appointment or approval any conditions that the Commissioner considers necessary to ensure that any other party to the proceedings is not substantially disadvantaged by that appointment or approval.

Section 89T: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

89U Subsequent applications

(1) If a determination has been made under this subpart in respect of an exemption, another application may be made under this subpart in respect of that exemption only if the Commissioner, in his or her discretion, is satisfied, after considering the matters referred to in subsection (2), that a new matter has been submitted in support of the application that was not submitted in support of the previous application.

(2) The matters to be considered are—

(a) the current application and any accompanying documentation; and

(b) the previous application and any accompanying documentation and any matter taken into account by the Commissioner in considering the previous application.

(3) If the Commissioner is not satisfied of the matter referred to in subsection (1), the Commissioner may refuse to make a determination, without taking any further action under this subpart.

(4) The Commissioner must give the applicant, in writing, the reasons for refusing to make the determination.

Section 89U: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

89V Effect of pending applications

The fact that an application is made by any person under this subpart does not suspend, interfere with, or affect the application of the specified exemption concerned.

Section 89V: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

89W Commencement of determinations

The Commissioner may, under this subpart, make a determination expressed to be retrospective to any day that the Commissioner considers appropriate, not being a day that precedes the start of the period of exemption.

Section 89W: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

89X Restriction on publication of reports of proceedings

(1) No person may, without the leave of the Commissioner or the Family Court, publish a report of any proceedings under this subpart.

(2) The Commissioner or the Family Court may grant leave under subsection (1) with or without conditions.

(3) Every person who contravenes subsection (1) commits an offence against this Act and is liable on conviction,—

(a) in the case of an individual, to imprisonment for a term not exceeding 3 months, or to a fine not exceeding $2,000:

(b) in the case of a body corporate, to a fine not exceeding $10,000.

(4) Nothing in this section applies to the publication of any report in any publication that—

(a) is of a bona fide professional or technical nature; and

(b) is intended for circulation among members of the legal profession, employees of the Crown, relationship counsellors, mediators, or social workers.

(5) Nothing in section 18(1) of the Tax Administration Act 1994 prevents the publication of a report of any proceedings under this subpart—

(a) with the leave of the Commissioner or the Family Court; or

(b) in accordance with subsection (4).

Section 89X: substituted, on 18 May 2009, by section 4 of the Child Support Amendment Act 2008 (2008 No 75).

Section 89X(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 89X(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 89X(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 89X(5): amended, on 18 March 2019, by section 326 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section 89X(5)(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Subpart 4—Exemption for victims of sex offences

Subpart 4: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

89Y Application for exemption on grounds relating to sex offence

(1) A liable parent may, by notice in writing to the Commissioner, apply for an exemption from the payment of child support in relation to a particular child if—

(a) any of the following apply:

(i) another person has been convicted of a sex offence:

(ii) another person has been proved before the Youth Court to have committed a sex offence:

(iii) the liable parent believes that another person has committed a sex offence; and

(b) the liable parent is the victim of that sex offence; and

(c) the liable parent believes that the child was conceived as a result of that sex offence.

(1A) A liable parent may apply under subsection (1)(a)(iii) even if the liable parent is unable to name the other person referred to in that subparagraph.

(2) For the purposes of this subpart,—

sex offence means an offence under sections 127 to 144C of the Crimes Act 1961

victim means, in relation to a sex offence, the person against whom the offence is committed by another person.

Section 89Y: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

Section 89Y(1)(a): replaced, on 27 June 2019, by section 108(1) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section 89Y(1A): inserted, on 27 June 2019, by section 108(2) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

89Z Grant of exemption to victim of sex offence

(1) The Commissioner must, as soon as practicable after receiving an application under section 89Y in respect of a liable parent and a particular child, exempt the person from the payment of child support in relation to that child if—

(a) the application is made in accordance with that section; and

(b) any of the following apply:

(i) the Commissioner is satisfied that another person has been convicted of a sex offence:

(ii) the Commissioner is satisfied that another person has been proved before the Youth Court to have committed a sex offence:

(iii) in the opinion of the Commissioner, it is likely that another person has committed a sex offence; and

(c) the Commissioner is satisfied that the liable parent is a victim of that sex offence; and

(d) in the opinion of the Commissioner, it is likely that the child was conceived as a result of that sex offence.

(1A) The Commissioner may act under subsection (1)(b)(iii) even if the other person has been acquitted of the sex offence.

(2) If the Commissioner grants an exemption under subsection (1), the period of exemption commences on the day on which the Commissioner received the application for the exemption.

(3) However, the period of exemption may commence on a day determined by the Commissioner that is earlier than the day on which the Commissioner received the application for exemption if the Commissioner is satisfied that it is—

(a) just and equitable as regards the child, the receiving carer, the liable parent, and any other child, carer, or parent that may be affected by the Commissioner's decision; and

(b) otherwise proper.

(4) The Commissioner may, for the purpose of determining whether a person is eligible for an exemption under this section, obtain information from the Ministry of Justice, the New Zealand Police, or both in accordance with section 18H of the Tax Administration Act 1994.

Section 89Z: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

Section 89Z(1)(b): replaced, on 27 June 2019, by section 109(1) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section 89Z(1)(c): replaced, on 27 June 2019, by section 109(1) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section 89Z(1A): inserted, on 27 June 2019, by section 109(2) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section 89Z(3): replaced, on 27 June 2019, by section 109(3) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section 89Z(4): amended, on 1 April 2021, by section 33 of the Child Support Amendment Act 2021 (2021 No 6).

89ZA Exemption is void in certain circumstances

(1) An exemption granted under section 89Z(1) is void from the beginning if,—

(a) in the case of an application that is based on a conviction for a sex offence, that conviction is quashed on appeal; or

(b) in the case of an application that is based on a finding of the Youth Court that a sex offence has been proved to have been committed, that finding is reversed or set aside; or

(c) in the case where the Commissioner relies on section 89Z(1)(b)(iii) when granting the exemption, the Commissioner is no longer of the opinion that it is likely that another person has committed the sex offence.

(2) Subsection (1) does not prevent a liable parent from making a new application under section 89Y.

(3) If, following a new application, an exemption is granted under section 89Z(1), the exemption commences on—

(a) the date on which the Commissioner received the new application for the exemption; or

(b) an earlier date under section 89Z(3).

Section 89ZA: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

Section 89ZA heading: amended, on 27 June 2019, by section 110(1) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section 89ZA(1)(b): amended, on 27 June 2019, by section 110(2) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section 89ZA(1)(b): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 89ZA(1)(c): inserted, on 27 June 2019, by section 110(3) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section 89ZA(2): replaced, on 27 June 2019, by section 110(4) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section 89ZA(3): replaced, on 27 June 2019, by section 110(4) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Subpart 5—Miscellaneous provisions concerning exemptions

Subpart 5: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

89ZB Commissioner must give effect to exemption and may take changes into account

(1) The Commissioner must, as soon as practicable after granting an exemption under this Part, take the action that is necessary to give effect to the exemption (whether by revoking any assessment or otherwise).

(2) The Commissioner must, as soon as practicable after being notified or otherwise becoming aware, or deciding, that an exemption under this Part does not apply for the whole or a part of a period for which the exemption was granted, take the action that is necessary to take that matter into account (whether by issuing or amending any assessment, amending any exemption, or otherwise).

(3) Subsection (4) applies if 1 or more of the following applies:

(a) the Commissioner has acted under section 89I(2) and the Commissioner is no longer satisfied that the estimates referred to in section 89I(2)(a) are fair and reasonable:

(b) the Commissioner has acted under section 89I(2) and the Commissioner is no longer satisfied that the assumptions referred to in section 89I(2)(b) are reasonable in the circumstances of the case:

(c) an exempted person's income is not in accordance with the estimates provided in or with the application for the exemption.

(4) The Commissioner may take the action that is necessary to take the matters referred to in subsection (3) into account (whether by issuing or amending any assessment, amending any exemption, or otherwise).

(5) The Commissioner's power to take action under subsections (2) and (4) includes, without limitation, the power to amend the period or periods for which an exemption was granted (whether that period or those periods are before or after the time that the Commissioner takes the action) in order to ensure that—

(a) the exemption is granted for a period or periods in relation to which the exempted person is eligible for the exemption; and

(b) the exemption is not granted for any period in relation to which the exemption must not apply in accordance with this Part.

(6) Nothing in this section limits the powers of the Commissioner under sections 86 and 87.

Section 89ZB: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

Section 89ZB(2): amended, on 27 June 2019, by section 111 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

89ZC Exempted person must advise Commissioner of certain matters

(1) This section applies if an exempted person—

(a) receives any income that affects the application of the exemption in relation to the whole or a part of a period for which the exemption has been granted; or

(b) receives more income than was disclosed in the estimates provided in or with the application for the exemption; or

(c) otherwise becomes aware that an exemption does not apply for the whole or a part of a period for which the exemption has been granted.

(2) The person must, as soon as practicable, notify the Commissioner of the matters referred to in subsection (1).

Section 89ZC: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

89ZD Liable person liable for payment of financial support for parts of child support year to which exemption does not apply

A person to whom an exemption has been granted in respect of a part or parts of a child support year is liable for payment of financial support for the parts of the child support year to which the exemption does not apply, and the Commissioner must issue an assessment accordingly.

Section 89ZD: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

89ZE Applications by agents

(1) A person who may apply for an exemption under this Part may do so by an agent authorised in writing by that person.

(2) If a person is incapable of authorising an agent under subsection (1) to make an application on that person's behalf,—

(a) the manager of that person's estate under the Protection of Personal and Property Rights Act 1988 may make the application; or

(b) if there is no manager under paragraph (a), the next friend of the person may make the application.

Section 89ZE: inserted, on 26 September 2006, by section 17(1) of the Child Support Amendment Act 2006 (2006 No 42).

Part 6
Objections

90 Objections to appealable decisions

(1) For the purposes of this Part, the term **appealable decision** means—

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

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

(ba) a decision as to whether a particular child is or is not a dependent child of a person:

(bb) a decision to accept an election under section 27:

(bc) a decision not to accept an election under section 27 (including a decision to overturn the acceptance of an election under section 27(9)):

(c) a decision not to accept an election made under section 40:

(ca) a decision under section 44A to reconcile estimated income where no return of income is furnished under the Income Tax Act 2007 and the Tax Administration Act 1994:

(d) a decision that a penalty has been imposed by operation of section 134:

(e) *[Repealed]*

(f) a decision under section 57(1) to accept an application for acceptance of an agreement:

(g) a decision under section 57(2) to refuse to accept an application for acceptance of an agreement:

(h) a decision under section 63 to accept, or to refuse to accept, an application for acceptance of a variation of an agreement:

(ha) a decision made under section 82(4) determining the date on which a change in living circumstances occurred:

(i) a decision under section 89I or 89Z not to grant an exemption from the payment of financial support:

(j) a decision under section 86 or a refusal to make any such decision:

(ja) a decision under section 96N to make, or to refuse to make, a suspension order:

(k) a decision under section 216 that a person has, or is known to have at some future time, a liability to make further payments of financial support under this Act.

(2) An objection may be made under this section by any person who is affected by the decision.

Section 90(1)(a): replaced, on 1 April 2015, by section 20(1) of the Child Support Amendment Act 2013 (2013 No 12).

Section 90(1)(b): replaced, on 1 April 2015, by section 20(1) of the Child Support Amendment Act 2013 (2013 No 12).

Section 90(1)(ba): inserted, on 1 April 2015, by section 20(1) of the Child Support Amendment Act 2013 (2013 No 12).

Section 90(1)(bb): inserted, on 25 February 2016, by section 28(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 90(1)(bc): inserted, on 25 February 2016, by section 28(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 90(1)(ca): inserted, on 24 July 1999, by section 23 of the Child Support Amendment Act 1999 (1999 No 81).

Section 90(1)(ca): amended, on 1 April 2008 (effective for 2008–09 income year and later), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Section 90(1)(d): replaced, on 1 April 2015, by section 20(2) of the Child Support Amendment Act 2013 (2013 No 12).

Section 90(1)(d): amended, on 25 February 2016 (with effect on 1 April 2015), by section 28(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 90(1)(e): repealed, on 24 July 1999, by section 17(2) of the Child Support Amendment Act 1999 (1999 No 81).

Section 90(1)(ha): inserted, on 1 April 2015, by section 20(3) of the Child Support Amendment Act 2013 (2013 No 12).

Section 90(1)(i): amended, on 26 September 2006, by section 18 of the Child Support Amendment Act 2006 (2006 No 42).

Section 90(1)(ja): inserted (with effect on 1 July 1994), on 15 July 1994, by section 6(1) of the Child Support Amendment Act 1994 (1994 No 74).

91 Objections to assessments

(1) An objection to an assessment, other than an amended assessment, may be made on any or all of the following grounds, but on no other ground:

(a) *[Repealed]*

(b) that the annual or monthly rate of financial support specified in the assessment has not been correctly calculated in accordance with this Act; or

(c) that the assessment has incorrectly determined the days in relation to which the financial support is payable; or

(d) that an annual rate of financial support specified in the assessment is not correctly assessed because the Commissioner has failed to give effect to any provision of this Act in relation to the assessment.

(1A) An objection to an amended assessment may be made on any or all of the grounds listed in subsection (1)(b) to (d), but—

(a) on no other ground; and

(b) only if the matters covered by the objection are attributable to the amendment of the assessment.

(2) An objection under this section may be made by any person to whom the Commissioner is required to give notice of the assessment under section 88 or 89.

(3) *[Repealed]*

Compare: 1976 No 65 s 30

Section 91(1): amended, on 25 February 2016, by section 29(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 91(1)(a): repealed, on 1 April 2015, by section 21(1) of the Child Support Amendment Act 2013 (2013 No 12).

Section 91(1A): inserted, on 25 February 2016, by section 29(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 91(2): replaced, on 1 April 2015, by section 21(2) of the Child Support Amendment Act 2013 (2013 No 12).

Section 91(2): amended, on 25 February 2016, by section 29(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 91(3): repealed, on 25 February 2016, by section 29(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

92 Requirements in relation to objections

(1) Every objection shall be delivered or posted to the Commissioner within 28 days after the date on which notice of the decision or assessment objected to was given by the Commissioner.

(2) No notice of objection that is given after that time shall be of any force or effect unless the Commissioner, in the Commissioner's discretion, accepts the same and gives notice to the objector accordingly.

(3) Every notice of objection shall state fully and in detail the grounds of the person's objection.

(3A) *[Repealed]*

(4) The Commissioner shall consider every objection that is properly made under this Act, and may alter the decision or the assessment, as the case may be, pursuant thereto.

Compare: Child Support Act 1988 s 82(2) (Aust)

Section 92(3A): repealed, on 1 April 2015, by section 212 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

93 Notice of result of objection

The Commissioner shall, as soon as practicable, notify the objector in writing—

(a) whether the objection has been allowed or disallowed:

(b) in a case where the objection has been allowed in whole or in part, the effect of allowing the objection, or that part of it:

(c) in a case where the objection has been disallowed in whole or in part, that the objector can appeal to the Family Court against that decision.

Section 93(c): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

94 Determination of objection not to affect other assessments or decisions

The determination of an objection under this Part shall relate solely to the decision or assessment objected to, and shall not affect the right of the Commissioner to make any other decision or assessment in respect of the objector,

or to amend the assessment objected to in a manner that is consistent with that determination.

Compare: 1985 No 141 s 39

95 Obligation to pay financial support where objection made

(1) The obligation to pay, and the right of the Commissioner to receive and recover, any child support or domestic maintenance shall not be suspended by the making of any objection under this Part.

(2) Subsection (1) does not apply in relation to a person if—

(a) the person has made an appeal under section 102 in relation to a child; and

(b) a ground of the appeal is that the person was not a parent of the child; and

(c) there is not a final decision of a court determining that ground of the appeal.

(3) Where an objection has been made under this Part but the objection has not been finally determined, the objector may apply to the Family Court for an order under section 117 that the liability imposed on the objector under this Act be suspended in whole or in part, pending the final determination of the objection, and the court may make such order (if any) as it thinks appropriate.

(4) If, on the final determination of the objection, the court finds that the objector is liable to pay child support or domestic maintenance, that finding shall apply retrospectively to any period during which the liability was suspended, in whole or in part, under this section, unless the court for special reasons orders otherwise.

Section 95 heading: amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 95(1): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 95(2)(a): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 95(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 95(4): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

96 Objections to which this Part does not apply

This Part shall not confer any right of objection with respect to any matter (other than those to which section 90 and section 91 apply) which by any provision in this Act is left to the discretion, judgment, opinion, approval, consent, or determination of the Commissioner.

Compare: 1976 No 65 s 36

Part 6A
Departure from formula assessment of child support initiated by liable parent or receiving carer

Part 6A: inserted (with effect on 1 July 1994), on 15 July 1994, by section 5(1) of the Child Support Amendment Act 1994 (1994 No 74).

Part 6A heading: amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Part 6A heading: amended, on 26 September 2006, by section 19 of the Child Support Amendment Act 2006 (2006 No 42).

96A Commissioner may make determination

The Commissioner may, in accordance with this Part, make a determination having the effect that all or some of the provisions of this Act relating to formula assessment of child support will be departed from in relation to a child.

Compare: Child Support (Assessment) Act 1989 s 98A (Aust); Child Support Legislation Amendment Act 1992 s 5 (Aust)

Section 96A: inserted (with effect on 1 July 1994), on 15 July 1994, by section 5(1) of the Child Support Amendment Act 1994 (1994 No 74).

96B Application for determination

(1) Any liable parent or receiving carer of a qualifying child may, by written application, ask the Commissioner to make a determination under this Part.

(2) An application may be made—

(a) only if a formula assessment is in force in relation to the child; and

(b) only in relation to child support payable in the child support year commencing on 1 April 1994 or any later child support year; and

(c) subject to section 96L.

(3) The parties to the application are—

(a) the applicant; and

(b) every other liable parent or receiving carer of the qualifying child.

Compare: Child Support (Assessment) Act 1989 s 98B (Aust); Child Support Legislation Amendment Act 1992 s 5 (Aust)

Section 96B: inserted (with effect on 1 July 1994), on 15 July 1994, by section 5(1) of the Child Support Amendment Act 1994 (1994 No 74).

Section 96B(1): amended, on 1 April 2015, by section 22A(1) of the Child Support Amendment Act 2013 (2013 No 12).

Section 96B(2)(a): amended, on 1 April 2015, by section 22A(2) of the Child Support Amendment Act 2013 (2013 No 12).

Section 96B(3): replaced, on 1 April 2015, by section 22A(3) of the Child Support Amendment Act 2013 (2013 No 12).

96BA Four-month time limit for certain applications that are time-barred under section 87A

(1) An application under section 96B that asks for a determination in relation to a time-barred period must be received by the Commissioner within 4 months after the date on which the latest notice of assessment in respect of that period is given by the Commissioner to the applicant.

(2) In this section, a **time-barred period** means the period in section 87A after which the Commissioner may not amend an assessment unless an exception under that section applies.

Section 96BA: inserted, on 26 October 2021, by section 34 of the Child Support Amendment Act 2021 (2021 No 6).

96C Matters as to which Commissioner must be satisfied before making determination

(1) Subject to this Part, if—

(a) an application is made to the Commissioner under section 96B; and

(b) the Commissioner is satisfied that—

(i) 1 or more of the grounds for departure referred to in subsection (2) exists or exist; and

(ii) it would be—

(A) just and equitable as regards the child and all parties to the application; and

(B) otherwise proper,—

to make a particular determination under this Part,—

the Commissioner may make the determination.

(2) For the purposes of subsection (1)(b)(i),—

(a) the grounds for departure are the same as the grounds for departure set out in section 105(2); and

(b) section 105(2)(b)(i) has effect subject to section 105(3); and

(c) section 105(2)(d) has effect subject to section 105(3D).

(3) Subsections (3C) and (4) to (6) of section 105 apply to the Commissioner in the exercise of his or her powers under this section as if—

(a) any reference in those subsections to the court were a reference to the Commissioner; and

(b) any reference to an order were a reference to a determination.

Compare: Child Support (Assessment) Act 1989 s 98C (Aust); Child Support Legislation Amendment Act 1992 s 5 (Aust)

Section 96C: inserted (with effect on 1 July 1994), on 15 July 1994, by section 5(1) of the Child Support Amendment Act 1994 (1994 No 74).

Section 96C(1)(b)(ii)(A): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96C(2)(b): amended, on 25 February 2016, by section 30(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 96C(2)(c): inserted, on 25 February 2016, by section 30(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 96C(3): amended, on 25 February 2016, by section 30(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

96D Determinations that may be made

(1) The Commissioner may make as a determination under this Part any decision that the court could make as an order under section 106(1), and the following provisions shall apply, with necessary modifications, as if a determination were an order:

(a) section 98 (which sets the minimum liability in respect of child support):

(b) section 106(2) to (4) (which relate to the orders that may be made):

(ba) section 106A (further provision on orders for re-establishment costs situations if income increases):

(bb) *[Repealed]*

(c) section 107 (which relates to implementation of orders):

(d) section 119(1)(a) (which relates to the cessation of orders).

(1A) The determinations that the Commissioner may make under subsection (1) are not limited by the terms of the application under section 96B.

(2) The Commissioner shall give each party, in writing, the reasons for making the determination (including the reasons for which the Commissioner is satisfied as required by section 105(1)).

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

Compare: Child Support (Assessment) Act 1989 s 98D (Aust); Child Support Legislation Amendment Act 1992 s 5 (Aust)

Section 96D: inserted (with effect on 1 July 1994), on 15 July 1994, by section 5(1) of the Child Support Amendment Act 1994 (1994 No 74).

Section 96D(1)(ba): inserted, on 25 February 2016, by section 31(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 96D(1)(bb): repealed, on 26 October 2021, by section 35 of the Child Support Amendment Act 2021 (2021 No 6).

Section 96D(1)(d): added, on 26 September 2006, by section 20 of the Child Support Amendment Act 2006 (2006 No 42).

Section 96D(1A): inserted, on 25 February 2016, by section 31(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 96D(2): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

96E Requirements for application

An application under section 96B must—

(a) be in writing; and

(b) set out the grounds on which the application is made.

Compare: Child Support (Assessment) Act 1989 s 98E (Aust); Child Support Legislation Amendment Act 1992 s 5 (Aust)

Section 96E: inserted (with effect on 1 July 1994), on 15 July 1994, by section 5(1) of the Child Support Amendment Act 1994 (1994 No 74).

96F Commissioner may refuse to make determination because issues too complex

(1) If the Commissioner is satisfied, at any time after considering the application, that the issues raised by the application are too complex to be dealt with under this Part, the Commissioner may refuse to make the determination without taking any further action under this Part, and recommend that application be made to the court for an order under Part 7.

(2) The Commissioner shall give the applicant, in writing, the reasons for refusing to make the determination.

Compare: Child Support (Assessment) Act 1989 s 98EA (Aust); Child Support Legislation Amendment Act (No 2) 1992 s 23 (Aust)

Section 96F: inserted (with effect on 1 July 1994), on 15 July 1994, by section 5(1) of the Child Support Amendment Act 1994 (1994 No 74).

96G Application disclosing no grounds, etc, for making determination—how dealt with

(1) If the Commissioner is satisfied, after considering the application, that—

(a) there are no grounds for departing from the provisions of this Act relating to formula assessment of child support in relation to the child concerned; or

(b) that the application seeks to reduce an assessment that has been set at the minimum liability,—

the Commissioner may refuse to make the determination without taking any further action under this Part.

(2) The Commissioner shall give the applicant, in writing, the reasons for refusing to make the determination.

Compare: Child Support (Assessment) Act 1989 s 98F (Aust); Child Support Legislation Amendment Act 1992 s 5 (Aust)

Section 96G: inserted (with effect on 1 July 1994), on 15 July 1994, by section 5(1) of the Child Support Amendment Act 1994 (1994 No 74).

96H Other parties to be notified

(1) The Commissioner shall notify each other party to the application—

(a) that an application has been made, and a summary of the grounds on which the application has been made; and

(b) that he or she may request a copy of the application and any accompanying documentation from the Commissioner; and

(c) that he or she may make any representation (in this Part called a **reply**) regarding the application that he or she considers relevant.

(2) Any reply to an application must—

(a) be in writing; and

(b) be filed with the Commissioner—

(i) within 14 days after the date on which the copy of the application and accompanying documentation is sent to the party; or

(ii) if no request is made for a copy of the application, within 14 days after the date on which the notification is sent.

(3) The Commissioner must send a copy of any reply and accompanying documentation to the applicant, and may send a copy of any reply and accompanying documentation to the other parties.

(4) Nothing in this section applies where the Commissioner refuses to make a determination under section 96F or section 96G or section 96L(5).

Compare: Child Support (Assessment) Act 1989 s 98G (Aust); Child Support Legislation Amendment Act 1992 s 5 (Aust); Child Support Legislation Amendment Act (No 2) 1992 s 24

Section 96H: inserted (with effect on 1 July 1994), on 15 July 1994, by section 5(1) of the Child Support Amendment Act 1994 (1994 No 74).

Section 96H heading: amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96H(1): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96H(2)(b)(i): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96H(3): replaced, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96H(4): amended, on 26 September 2006, by section 21 of the Child Support Amendment Act 2006 (2006 No 42).

96I Procedure for dealing with application

(1) In making a decision under this Part in relation to an application, the Commissioner—

(a) may act on the basis of the application and any reply received and any other information in the Commissioner's possession; and

(b) may, but (subject to subsection (2)) is not required to, conduct any enquiries or investigations into the matter.

(2) The Commissioner shall give an opportunity to the applicant and each other party to the application to appear before the Commissioner, and be heard by him or her, if they so wish.

(3) Nothing in subsection (2)—

(a) empowers the Commissioner to compel a party to an application to appear before the Commissioner in the presence of any other party; or

(b) applies where the Commissioner refuses to make a determination under section 96F or section 96G or section 96L(5).

(4) Notwithstanding subsection (2), where any other party to the application fails to file a reply or does not file a reply within the prescribed time, the Commissioner may refuse to hear that party.

(5) Any hearing before the Commissioner, and any enquiry or investigation carried out by the Commissioner, is to be carried out as the Commissioner thinks fit and the Commissioner is not bound by any rules of evidence.

(6) Nothing in section 125 (which relates to intervention in proceedings) shall apply to proceedings under this Part.

Compare: Child Support (Assessment) Act 1989 s 98H (Aust); Child Support Legislation Amendment Act 1992 s 5 (Aust)

Section 96I: inserted (with effect on 1 July 1994), on 15 July 1994, by section 5(1) of the Child Support Amendment Act 1994 (1994 No 74).

Section 96I(1)(a): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96I(2): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96I(3)(a): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96I(3)(b): amended, on 26 September 2006, by section 22 of the Child Support Amendment Act 2006 (2006 No 42).

Section 96I(4): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

96J Circumstances in which representation or assistance at hearing may be approved

(1) Subject to subsection (2), no party shall be entitled to be represented at a hearing by a representative unless it appears to the Commissioner to be proper in all the circumstances to so allow, and the Commissioner approves such representative.

(2) The following parties may be represented by a representative who is approved by the Commissioner:

(a) the Crown, if the representative is an officer or employee of the Crown:

(b) a minor, or other person under disability:

(c) any other person, if the Commissioner is satisfied that for sufficient cause that person is unable to appear in person or is unable to present his or her case adequately.

(3) No person proposed as a party's representative shall be approved unless the Commissioner is satisfied that the person proposed has sufficient knowledge of the case and sufficient authority to bind the party.

(4) The Commissioner may permit any person nominated by a party to be present at the hearing and to assist the party in the presentation of his or her case if it appears to the Commissioner to be proper in all the circumstances to so permit, and the Commissioner approves such person.

(5) No person approved by the Commissioner under subsection (4) shall be entitled to be heard at the hearing, and the Commissioner may exclude any such person from the hearing at any time.

(6) The Commissioner shall not—

(a) approve as a representative under subsection (1) or subsection (2); or

(b) approve under subsection (4)—

any person who is, or has been, enrolled as a barrister and solicitor, or who, in the opinion of the Commissioner is, or has been, regularly engaged in advocacy work before other tribunals.

(7) Where the Commissioner approves any person under subsection (1) or subsection (2) or subsection (4), the Commissioner may impose in respect of any such appointment or approval such conditions as the Commissioner considers necessary to ensure that any other party to the proceedings is not substantially disadvantaged by that appointment or approval.

Compare: 1988 No 110 s 38(2)–(8)

Section 96J: inserted (with effect on 1 July 1994), on 15 July 1994, by section 5(1) of the Child Support Amendment Act 1994 (1994 No 74).

96K Child support agreements entered into before determination made

The Commissioner may not make a determination under this Part in relation to an application if, while the application is pending, the parties enter into an agreement in relation to the child support payable for the child in relation to whom the determination was sought and either—

(a) the agreement is a qualifying voluntary agreement that is accepted by the Commissioner under Part 3; or

(b) an election is made in accordance with section 27 to end the liability of the liable parent to pay child support in respect of the child under a formula assessment.

Section 96K: inserted (with effect on 1 July 1994), on 15 July 1994, by section 5(1) of the Child Support Amendment Act 1994 (1994 No 74).

96L Subsequent applications

(1) This section applies to a formula assessment of child support if—

(a) a determination has been made in connection with that formula assessment under this Part or Part 6B; or

(b) an appeal has been heard by the Family Court under section 103B or 103C in connection with that formula assessment; or

(c) an application has been heard by the Family Court under section 104 in connection with that formula assessment.

(2) An application may be made under this Part in connection with a formula assessment to which this section applies only if the Commissioner is satisfied, in his or her discretion, after considering the matters referred to in subsection (3), that either—

(a) a new matter has been submitted in support of that application that was not considered in relation to the previous application, determination, or appeal; or

(b) the application is made on a ground for departing from the formula assessment that is different from the ground or grounds that were considered in relation to the previous application, determination, or appeal.

(3) The matters to be considered are—

(a) the current application and any accompanying documentation; and

(b) any matter taken into account by the Commissioner or the court in the course of considering the previous application, determination, or appeal.

(4) The Commissioner is required to take into account the matters specified in subsection (3) only to the extent that the Commissioner has knowledge of those matters.

(5) If the Commissioner is not satisfied of the matters of which the Commissioner is required to be satisfied under this section, the Commissioner may refuse to make a determination without taking any further action under this Part.

(6) The Commissioner must give the applicant, in writing, the reasons for refusing to make the determination.

Section 96L: substituted, on 26 September 2006, by section 23 of the Child Support Amendment Act 2006 (2006 No 42).

Section 96L(1)(b): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 96L(1)(c): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

96M Effect of pending applications

Subject to section 96N, the fact that an application is made by any person under this Part does not suspend, interfere with, or affect—

(a) any formula assessment made in relation to the person; or

(b) the obligation to pay child support; or

(c) the right of the Commissioner to receive and recover child support.

Compare: Child Support (Assessment) Act 1989 s 98M (Aust); Child Support Legislation Amendment Act (No 2) 1992 s 25 (Aust)

Section 96M: inserted (with effect on 1 July 1994), on 15 July 1994, by section 5(1) of the Child Support Amendment Act 1994 (1994 No 74).

96N Suspension of liabilities

(1) When an application has been made under this Part, a party to the application may apply to the Commissioner for a suspension order, and section 117 shall apply with necessary modifications as if references to the court were references to the Commissioner.

(2) The Commissioner shall not make a suspension order under this section—

(a) unless the Commissioner is satisfied that the making of a determination is likely to be unusually delayed; and

(b) until the time for filing a reply has expired.

Section 96N: inserted (with effect on 1 July 1994), on 15 July 1994, by section 5(1) of the Child Support Amendment Act 1994 (1994 No 74).

96O Commencement of determinations

The Commissioner may, under this Part, make a determination expressed to be retrospective to such day as the Commissioner considers appropriate, not being a day that precedes the later of—

(a) 1 April 1994; or

(b) the day on which the application for formula assessment to which the determination applies was made.

Section 96O: inserted (with effect on 1 July 1994), on 15 July 1994, by section 5(1) of the Child Support Amendment Act 1994 (1994 No 74).

96P Restriction on publication of reports of proceedings

(1) No person may, without the leave of the Commissioner or the Family Court, publish a report of any proceedings under this Part.

(2) The Commissioner or the Family Court may grant leave under subsection (1) with or without conditions.

(3) Every person who contravenes subsection (1) commits an offence against this Act and is liable on conviction,—

(a) in the case of an individual, to imprisonment for a term not exceeding 3 months, or to a fine not exceeding $2,000:

(b) in the case of a body corporate, to a fine not exceeding $10,000.

(4) Nothing in this section applies to the publication of any report in any publication that—

(a) is of a bona fide professional or technical nature; and

(b) is intended for circulation among members of the legal profession, employees of the Crown, relationship counsellors, mediators, or social workers.

(5) Nothing in section 18(1) of the Tax Administration Act 1994 prevents the publication of a report of any proceedings under this Part—

(a) with the leave of the Commissioner or the Family Court; or

(b) in accordance with subsection (4).

Section 96P: substituted, on 18 May 2009, by section 5 of the Child Support Amendment Act 2008 (2008 No 75).

Section 96P(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 96P(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 96P(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 96P(5): amended, on 18 March 2019, by section 326 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section 96P(5)(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Part 6B
Departure from formula assessment of child support initiated by Commissioner

Part 6B: inserted, on 26 September 2006, by section 24 of the Child Support Amendment Act 2006 (2006 No 42).

96Q Commissioner may make determination under this Part

(1) The Commissioner may, in accordance with this Part, make a determination having the effect that all or some of the provisions of this Act relating to formula assessment of child support will be departed from in relation to a child.

(2) The parties to proceedings under this Part are—

(a) the parent (who may, but need not, be a liable parent) who is the subject of a review under this Part (the **subject parent**); and

(b) any receiving carer, whether a parent or non-parent, of the child who elects, under section 96Y, to become a party; and

(c) a liable parent who is not the subject parent, but who elects, under section 96Y, to become a party.

Section 96Q: inserted, on 26 September 2006, by section 24 of the Child Support Amendment Act 2006 (2006 No 42).

Section 96Q(2): replaced, on 1 April 2015, by section 23 of the Child Support Amendment Act 2013 (2013 No 12).

96R Matters that Commissioner must be satisfied of before making determination

(1) Subject to this Part, the Commissioner may make a determination under this Part if the Commissioner is satisfied that,—

(a) by virtue of special circumstances, application in relation to the child of the provisions of this Act relating to formula assessment of child support would result in an unjust and inequitable determination of the level of child support to be provided by the liable parent for the child because of the income, earning capacity, property, and financial resources of either parent or the child; and

(b) a determination under this Part would be—

(i) just and equitable as regards the child, the receiving carer, and the liable parent; and

(ii) otherwise proper.

(2) Section 105(4) to (6) applies to the Commissioner in the exercise of his or her powers under this section as if—

(a) any reference in those subsections to the court were a reference to the Commissioner; and

(b) any reference in those subsections to an order were a reference to a determination under this Part.

Section 96R: inserted, on 26 September 2006, by section 24 of the Child Support Amendment Act 2006 (2006 No 42).

Section 96R(1)(b)(i): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

96S Commissioner may make preliminary enquiries

(1) The Commissioner may conduct a preliminary enquiry or investigation with a view to considering whether a determination under this Part may be appropriate.

(2) For the purposes of this section, the Commissioner—

(a) may act on the basis of any information in the Commissioner's possession; and

(b) may make any enquiries or investigations the Commissioner considers necessary.

Section 96S: inserted, on 26 September 2006, by section 24 of the Child Support Amendment Act 2006 (2006 No 42).

96T Notice to subject parent giving chance to respond

If the Commissioner is satisfied that there are reasonable grounds to believe that a determination under this Part may be appropriate, the Commissioner must—

(a) notify the subject parent; and

(b) send to the subject parent a statement of reasons as to why the Commissioner is satisfied that a determination under this Part may be appropriate; and

(c) notify the subject parent that he or she may make a written response.

Section 96T: inserted, on 26 September 2006, by section 24 of the Child Support Amendment Act 2006 (2006 No 42).

Section 96T heading: amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96T(a): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96T(b): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96T(c): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

96U Written response by subject parent

(1) A subject parent may respond in writing to a notification by the Commissioner under section 96T.

(2) A written response under this section must be—

(a) made to the Commissioner in a manner specified by the Commissioner; and

(b) filed with the Commissioner within 28 days after the date the subject parent is sent notification under section 96T.

Section 96U: inserted, on 26 September 2006, by section 24 of the Child Support Amendment Act 2006 (2006 No 42).

Section 96U heading: amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96U(1): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96U(2)(b): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

96V Decision by Commissioner to start proceedings under this Part

As soon as practicable after the expiry of the period referred to in section 96U(2)(b), the Commissioner must—

(a) consider any written response filed by the subject parent; and

(b) decide whether to start proceedings under this Part.

Section 96V: inserted, on 26 September 2006, by section 24 of the Child Support Amendment Act 2006 (2006 No 42).

Section 96V(a): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

96W Commissioner to notify subject parent

(1) The Commissioner must notify the subject parent, in writing, as to whether the Commissioner has decided to start proceedings under this Part.

(2) If the Commissioner decides to start proceedings under this Part, the Commissioner must also—

(a) notify the subject parent with the rights of the subject parent and of any receiving carer or liable parent who elects to become a party under section 96Y to make written representations and receive information in accordance with section 96Z; and

(b) provide the subject parent with a summary of the information on which the Commissioner has based his or her decision.

Section 96W: inserted, on 26 September 2006, by section 24 of the Child Support Amendment Act 2006 (2006 No 42).

Section 96W heading: amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96W(1): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96W(2)(a): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96W(2)(b): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

96X Commissioner to notify receiving carers and liable parent with rights of election under section 96Y

If the Commissioner decides to start proceedings under this Part, the Commissioner must notify the receiving carers and any liable parent who is not the subject parent, in writing, of—

(a) the Commissioner's decision; and

(b) the receiving carer's or liable parent's rights of election under section 96Y; and

(c) the rights of the subject parent and of any receiving carer or liable parent who has rights of election under section 96Y to make written representations and receive information in accordance with section 96Z.

Section 96X: inserted, on 26 September 2006, by section 24 of the Child Support Amendment Act 2006 (2006 No 42).

Section 96X heading: amended, on 25 February 2016, by section 32(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 96X heading: amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96X: amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96X(b): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96X(c): amended, on 25 February 2016, by section 32(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 96X(c): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

96Y Election by receiving carer or by liable parent to become party or discontinue proceedings

(1) Any relevant person (*see* subsection (8)) may elect to become a party to proceedings before the Commissioner under this Part.

(2) A relevant person may elect to discontinue proceedings in relation to a formula assessment of child support that was or will become payable, except that—

(a) a receiving carer who was a UCB beneficiary during a particular period may not elect to discontinue proceedings in respect of child support that was payable during that period; and

(b) a receiving carer who is a UCB beneficiary may not elect to discontinue proceedings in respect of child support that will become payable.

(3) If a relevant person makes an election under subsection (1) or (2), the election must be—

(a) in writing; and

(b) filed with the Commissioner within 14 days after the date on which the Commissioner sends notification to the relevant person under section 96X.

(4) The Commissioner must inform the subject parent of any election made by a relevant person under this section as soon as practicable after it is filed with the Commissioner.

(5) A relevant person may become a party to proceedings under this Part only in accordance with this section.

(6) If a relevant person makes an election under subsection (2) to discontinue proceedings in relation to formula assessment of child support that was or will become payable, the Commissioner must discontinue the proceedings that relate to formula assessment of that child support in accordance with the election.

(7) However, if there is more than 1 relevant person, the Commissioner must not discontinue the proceedings unless each relevant person has elected under subsection (2) to discontinue them.

(8) In this section and sections 96Z and 96ZA, **relevant person** means—

(a) a receiving carer who is not the subject parent; or

(b) a liable parent who is not the subject parent.

Section 96Y: inserted, on 26 September 2006, by section 24 of the Child Support Amendment Act 2006 (2006 No 42).

Section 96Y heading: amended, on 25 February 2016, by section 33(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 96Y heading: amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96Y(1): amended, on 25 February 2016, by section 33(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 96Y(1): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96Y(2): replaced, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96Y(2): amended, on 25 February 2016, by section 33(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 96Y(2)(a): amended, on 1 July 2023, by section 11 of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

Section 96Y(2)(b): amended, on 1 July 2023, by section 11 of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

Section 96Y(3): amended, on 25 February 2016, by section 33(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 96Y(3)(b): amended, on 25 February 2016, by section 33(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 96Y(4): amended, on 25 February 2016, by section 33(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 96Y(4): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96Y(5): amended, on 25 February 2016, by section 33(6) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 96Y(6): amended, on 25 February 2016, by section 33(7) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 96Y(7): inserted, on 25 February 2016, by section 33(8) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 96Y(8): inserted, on 25 February 2016, by section 33(8) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

96Z Written representations by parties

(1) Any party may make written representations as to whether the grounds for a determination under this Part exist.

(2) Any written representations made by a party in proceedings under this Part must be—

(a) made to the Commissioner in a manner specified by the Commissioner; and

(b) filed with the Commissioner,—

(i) in the case of a subject parent, within 14 days after the date on which the subject parent is sent notification under section 96W; and

(ii) in the case of a relevant person (*see* section 96Y(8)), within 14 days after the date on which the relevant person is sent notification under section 96X.

(3) A subject parent is entitled to receive a copy of any written representations (and any accompanying documentation) that a relevant person provides to the Commissioner under this section.

(4) A relevant person who elects to become a party in accordance with section 96Y is entitled to receive a copy of any written representations (and any accompanying documentation) that the subject parent provides to the Commissioner under this section if those representations are provided to the Commissioner after the subject parent is sent notification under section 96W.

(5) For the purposes of this Part, a relevant person is not entitled to any information relating to the subject parent that is in the Commissioner's possession other than information that came into the Commissioner's possession in the course of proceedings under this Part after those proceedings are started under section 96V.

Section 96Z: inserted, on 26 September 2006, by section 24 of the Child Support Amendment Act 2006 (2006 No 42).

Section 96Z heading: amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96Z(1): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96Z(2): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96Z(2)(b)(i): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96Z(2)(b)(ii): replaced, on 25 February 2016, by section 34(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 96Z(2)(b)(ii): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96Z(3): amended, on 25 February 2016, by section 34(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 96Z(3): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96Z(4): amended, on 25 February 2016, by section 34(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 96Z(4): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96Z(5): amended, on 25 February 2016, by section 34(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 96Z(5): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

96ZA Procedure for making determination

(1) In making a determination under this Part, the Commissioner—

(a) may act on the basis of any information in the Commissioner's possession; and

(b) may, but (subject to subsection (2)) is not required to, conduct any enquiries or investigations into the matter.

(2) The Commissioner must give an opportunity to each party to appear before the Commissioner and be heard by him or her, if they so wish.

(3) Nothing in subsection (2)—

(a) empowers the Commissioner to compel a party to appear before the Commissioner in the presence of the other party; or

(b) applies if the Commissioner refuses to make a determination under section 96ZC.

(4) Despite subsection (2), if a relevant person (*see* section 96Y(8)) who elects to become a party in accordance with section 96Y fails to file any written representations within the prescribed time, the Commissioner may refuse to hear that person.

(5) Any hearing before the Commissioner, and any enquiry or investigation carried out by the Commissioner, must be carried out as the Commissioner thinks fit and the Commissioner is not bound by any rules of evidence.

(6) Nothing in section 125 (which relates to intervention in proceedings) applies to proceedings under this Part.

Section 96ZA: inserted, on 26 September 2006, by section 24 of the Child Support Amendment Act 2006 (2006 No 42).

Section 96ZA(2): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96ZA(4): amended, on 25 February 2016, by section 35 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

96ZB Determinations that may be made

(1) The Commissioner may make as a determination under this Part any decision that the court could make as an order under section 106(1), and the following provisions apply, with necessary modifications, as if a determination were an order:

(a) section 98 (which sets the minimum liability in respect of child support):

(b) section 106(2) to (4) (which relates to the orders that may be made):

(c) section 107 (which relates to implementation of orders):

(d) section 119(1)(a) (which relates to cessation of orders).

(2) The Commissioner must, in writing, give reasons for making the determination (including the reasons why the Commissioner is satisfied, in accordance with section 96R, that a determination should be made) to each party to the proceedings.

(a) *[Repealed]*

(b) *[Repealed]*

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

Section 96ZB: inserted, on 26 September 2006, by section 24 of the Child Support Amendment Act 2006 (2006 No 42).

Section 96ZB(2): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96ZB(2)(a): repealed, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96ZB(2)(b): repealed, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

96ZC Commissioner may refuse to make determination because issues too complex

(1) If the Commissioner is satisfied, at any time after starting proceedings under this Part, that the matters in issue are too complex to be dealt with under this Part, the Commissioner may refuse to make the determination without taking any further action under this Part.

(2) The Commissioner must give each parent and receiving carer affected by the proceedings the reasons, in writing, for refusing to make the determination.

(3) The Commissioner may recommend that the receiving carer or the liable parent make an application to the court for an order under section 104.

Section 96ZC: inserted, on 26 September 2006, by section 24 of the Child Support Amendment Act 2006 (2006 No 42).

Section 96ZC(2): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 96ZC(3): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

96ZD Effect of pending proceedings under this Part

The fact that the Commissioner has started proceedings under this Part does not suspend, interfere with, or affect—

(a) any formula assessment made in relation to the liable parent; or

(b) the obligation to pay child support; or

(c) the right of the Commissioner to receive and recover child support.

Section 96ZD: inserted, on 26 September 2006, by section 24 of the Child Support Amendment Act 2006 (2006 No 42).

96ZE Commencement of determinations

The Commissioner may, under this Part, make a determination expressed to be retrospective to any day that the Commissioner considers appropriate, not being a day that precedes the commencement of this section.

Section 96ZE: inserted, on 26 September 2006, by section 24 of the Child Support Amendment Act 2006 (2006 No 42).

96ZF Restriction on publication of reports of proceedings

(1) No person may, without the leave of the Commissioner or the Family Court, publish a report of any proceedings under this Part.

(2) The Commissioner or the Family Court may grant leave under subsection (1) with or without conditions.

(3) Every person who contravenes subsection (1) commits an offence against this Act and is liable on conviction,—

(a) in the case of an individual, to imprisonment for a term not exceeding 3 months, or to a fine not exceeding $2,000:

(b) in the case of a body corporate, to a fine not exceeding $10,000.

(4) Nothing in this section applies to the publication of any report in any publication that—

(a) is of a bona fide professional or technical nature; and

(b) is intended for circulation among members of the legal profession, employees of the Crown, relationship counsellors, mediators, or social workers.

(5) Nothing in section 18(1) of the Tax Administration Act 1994 prevents the publication of a report of any proceedings under this Part—

(a) with the leave of the Commissioner or the Family Court; or

(b) in accordance with subsection (4).

Section 96ZF: substituted, on 18 May 2009, by section 6 of the Child Support Amendment Act 2008 (2008 No 75).

Section 96ZF(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 96ZF(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 96ZF(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 96ZF(5): amended, on 18 March 2019, by section 326 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section 96ZF(5)(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

96ZG Application of certain provisions in Part 6A to proceedings under this Part

The following provisions of Part 6A apply to proceedings under this Part, with necessary modifications, as if any reference to an application in those sections were a reference to proceedings under this Part:

(a) section 96J (which relates to circumstances in which representation or assistance at a hearing may be approved):

(b) section 96K (which relates to the effect of a child support agreement entered into before a determination is made).

Section 96ZG: inserted, on 26 September 2006, by section 24 of the Child Support Amendment Act 2006 (2006 No 42).

Part 7
Jurisdiction of courts in relation to child support and domestic maintenance

Part 7 heading: amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

General provisions relating to jurisdiction

97 Jurisdiction of courts

The Supreme Court, the Court of Appeal, the High Court, the District Court, and the Family Court shall have jurisdiction in proceedings under this Act only where—

(a) any party to the proceeding resides or is domiciled in New Zealand; or

(b) any child to whom the proceeding relates resides or is domiciled in New Zealand.

Compare: 1980 No 94 s 4

Section 97: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 97: amended, on 1 January 2004, by section 47 of the Supreme Court Act 2003 (2003 No 53).

98 Minimum liability in respect of child support

(1) An order made under this Part as to the annual rate of child support must not operate in a child support year so as to reduce that rate below,—

(a) for an appeal on, or other order relating to, a formula assessment or an order under section 109, the minimum annual rate for that year under section 72(1)(a); and

(b) for all other orders, $520.

(2) Subsection (2A) applies when—

(a) an order would, but for this section, operate in a child support year so as to reduce the annual rate of child support payable under a formula assessment below the minimum annual rate for that year under section 72(1)(a); and

(b) the child support payable is payable under the formula assessment in respect of more than 1 receiving carer.

(2A) When this subsection applies, the annual rate of child support payable in the child support year to each receiving carer is the minimum annual rate under section 72(1)(a) divided between the receiving carers on the basis of the number of the liable parent's qualifying children in respect of whom a formula assessment applies that each receiving carer provides care for.

(3) Subsection (2A) applies notwithstanding—

(a) that the annual rate of child support payable in respect of a child to whom the order relates is greater than the rate provided for by the order:

(b) that the annual rate of child support payable in respect of a child to whom the order does not relate is greater than the rate which would have been payable if the order had not been made.

Section 98(1): substituted, on 7 November 2001, by section 5(2) of the Child Support Amendment Act 2001 (2001 No 90).

Section 98(2): replaced, on 1 April 2015, by section 213(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section 98(2A): inserted, on 1 April 2015, by section 213(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section 98(2A): amended, on 25 February 2016, by section 36 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 98(3): amended, on 1 April 2015, by section 213(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

99 Declarations in respect of step-parents

(1) A parent or carer of a child may apply to the Family Court for a declaration that a specified person is a step-parent of the child.

(2) Any person who wishes to be declared to be a step-parent of a child for the purposes of this Act may apply to the Family Court for a declaration to that effect.

(3) Subject to section 125, the parties to the proceeding are—

(a) the applicant for the declaration under this section; and

(b) the person whom the application seeks to be declared to be a step-parent of the child (if that person is not the applicant); and

(c) any other person who is a parent or carer of the child when the application is made.

(4) In determining whether to grant a declaration that a person is a step-parent of a child, the court shall have regard to the following circumstances:

(a) the extent (if at all) to which that person has assumed responsibility for the maintenance of the child, and the basis on which that person assumed that responsibility, and the length of time during which that person has discharged that responsibility; and

(b) whether that person assumed or discharged any responsibility for maintenance of the child knowing that that person was not the natural parent of the child; and

(c) the liability of any other person to maintain the child; and

(d) whether or not that person was ever living with a parent of the child in a marriage, civil union or de facto relationship; and

(e) whether that person has at any time been a guardian of the child.

(5) For the purposes of subsection (4)(a), a person shall not be taken to have assumed responsibility for the maintenance of a child by reason only of meeting the child maintenance liabilities of another person who is wholly or partially maintained by him or her.

(5A) If an application made under subsection (1) or (2) is undefended, a Family Court Associate may exercise the jurisdiction of the Family Court under this section and grant a declaration.

(6) When the Family Court makes a declaration under this section, the Commissioner shall, as soon as is practicable, take such action (if any) as is necessary to give effect to the decision.

Section 99(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 99(1): amended, on 25 February 2016, by section 37(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 99(1): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 99(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 99(3): replaced, on 25 February 2016, by section 37(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 99(4)(d): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 99(5A): inserted, on 6 October 2023, by section 34 of the Family Court (Family Court Associates) Legislation Act 2023 (2023 No 25).

Section 99(6): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Appeals from decisions of Commissioner in respect of objections under Part 6

100 Appeal by person from whom formula assessment of child support sought

[Repealed]

Section 100: repealed, on 1 April 2015, by section 24 of the Child Support Amendment Act 2013 (2013 No 12).

101 Appeal by unsuccessful applicant for formula assessment

[Repealed]

Section 101: repealed, on 1 April 2015, by section 24 of the Child Support Amendment Act 2013 (2013 No 12).

102 Appeals against decisions of Commissioner

(1) Where the Commissioner disallows an objection made under section 90, the objector may appeal to the Family Court against that decision.

(2) The appeal must be lodged within 2 months after the date upon which notice of disallowance of the objection is given to the objector by or on behalf of the Commissioner.

(3) Subject to section 125, the parties to the appeal are the objector and the Commissioner.

(4) A court hearing such an appeal may make such order as it considers appropriate in relation to the decision to which the appeal relates, including an order confirming or varying the decision.

(5) When an order is made by a court under this section, the Commissioner shall, as soon as practicable, take such action as is necessary to give effect to the decision (whether by amending any assessment or otherwise).

Compare: Child Support (Assessment) Act 1989 s 132 (Aust)

Section 102 heading: amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 102(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 102(1): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 102(3): replaced, on 25 February 2016, by section 38 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

103 Appeals against assessments

(1) Where the Commissioner disallows in whole or in part an objection made under section 91 to an assessment, the objector may appeal to an office of the Family Court against the assessment.

(2) The appeal must be lodged within 2 months after the date upon which notice of disallowance of the objection is given to the objector by or on behalf of the Commissioner.

(3) Subject to section 125, the parties to the appeal are the objector and the Commissioner.

(4) When hearing an appeal under this section, the Family Court must make such order correcting the assessment to which the appeal relates as the circumstances require.

(5) When the Family Court makes an order under this section, the Commissioner shall, as soon as practicable, take such action as is necessary to give effect to the decision (whether by amending the assessment or otherwise).

(6) In subsequently making any assessment in relation to a person affected by the assessment that was objected to, the Commissioner shall act on the basis of the decision of the court to the extent to which it is applicable.

Compare: Child Support (Assessment) Act 1989 ss 110, 111 (Aust)

Section 103(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 103(1): amended, on 25 February 2016, by section 39(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 103(3): replaced, on 25 February 2016, by section 39(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 103(4): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 103(5): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 103(6): amended, on 25 February 2016, by section 39(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Appeals in relation to determinations

Heading: inserted, on 26 September 2006, by section 25 of the Child Support Amendment Act 2006 (2006 No 42).

103A Appeal in relation to determination or decision under subpart 3 of Part 5A

(1) A payee or a liable person may appeal to the Family Court against—

(a) a determination made by the Commissioner under subpart 3 of Part 5A; or

(b) a decision made under that subpart to refuse to make a determination.

(2) An appeal under this section must be lodged within—

(a) 2 months after the date on which the determination or decision is made; or

(b) any further time that a Family Court Judge or Family Court Associate may allow on application made before or after the expiration of that period.

(3) The parties to an appeal are—

(a) the appellant; and

(b) the other party to the proceedings before the Commissioner resulting in the determination or decision; and

(c) the Commissioner.

(4) An appeal under this section is by way of rehearing.

Section 103A: inserted, on 26 September 2006, by section 25 of the Child Support Amendment Act 2006 (2006 No 42).

Section 103A(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 103A(2)(b): amended, on 6 October 2023, by section 35 of the Family Court (Family Court Associates) Legislation Act 2023 (2023 No 25).

103B Appeal by respondent from determination under Part 6A

(1) A receiving carer may appeal to the Family Court against a determination made by the Commissioner under Part 6A if the receiving carer is not the person who made the application for the determination under section 96B.

(2) A liable parent may appeal to the Family Court against a determination made by the Commissioner under Part 6A if the liable parent is not the person who made the application for the determination under section 96B.

(3) An appeal under this section must be lodged within—

(a) 2 months after the date on which the determination is made; or

(b) any further time that a Family Court Judge or Family Court Associate may allow on application made before or after the expiration of that period.

(4) The parties to an appeal are, subject to section 125,—

(a) the appellant; and

(b) any other party to the proceedings under Part 6A.

(5) An appeal under this section is by way of rehearing.

Section 103B: inserted, on 26 September 2006, by section 25 of the Child Support Amendment Act 2006 (2006 No 42).

Section 103B(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 103B(1): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 103B(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 103B(3)(b): amended, on 6 October 2023, by section 36 of the Family Court (Family Court Associates) Legislation Act 2023 (2023 No 25).

Section 103B(4)(b): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

103C Appeal from determination under Part 6B

(1) Any party referred to in section 96Q(2) may appeal to the Family Court against a determination made by the Commissioner under Part 6B.

(2) An appeal under this section must be lodged within—

(a) 2 months after the date on which the determination is made; or

(b) any further time that a Family Court Judge or Family Court Associate may allow on application made before or after the expiration of that period.

(3) The parties to an appeal are—

(a) the appellant; and

(b) any other party to the proceedings before the Commissioner resulting in the determination; and

(c) the Commissioner.

(4) An appeal under this section is by way of rehearing.

Section 103C: inserted, on 26 September 2006, by section 25 of the Child Support Amendment Act 2006 (2006 No 42).

Section 103C(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 103C(1): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 103C(2)(b): amended, on 6 October 2023, by section 37 of the Family Court (Family Court Associates) Legislation Act 2023 (2023 No 25).

Section 103C(3)(b): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

103D Powers of Family Court on appeal

(1) In determining an appeal under any of sections 103A to 103C, the Family Court may—

(a) confirm, modify, or reverse any determination or decision appealed against (in whole or in part):

(b) make any decision that the Commissioner could have made in respect of the determination or decision appealed against:

(c) exercise any of the powers that could have been exercised by the Commissioner.

(2) Without limiting subsection (1),—

(a) in reversing a decision or part of a decision, the Family Court may make an order that the provisions of this Act relating to the formula assessment of child support should not be departed from:

(b) in reversing a decision made under subpart 3 of Part 5A to refuse to make a determination, the Family Court may exercise any of the powers that could have been exercised by the Commissioner to make a determination under that subpart.

(3) An order under this section may make different provision in relation to different child support years and in relation to different parts of a child support year.

(4) Subject to section 98(2), an order made under this section does not operate so as to increase or reduce the amount of child support payable in relation to any child to whom the order does not apply, and the child support payable in relation to any child to whom the order does not apply must be calculated as if the order had not been made.

(5) Every order made under this section must specify the period of time in which the order is to apply or specify the event the occurrence of which will cause the order to terminate.

Section 103D: inserted, on 26 September 2006, by section 25 of the Child Support Amendment Act 2006 (2006 No 42).

Section 103D(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 103D(2)(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 103D(2)(b): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

103E Implementation of orders

(1) When a decision of the Family Court making an order in determination of an appeal under section 103D becomes final, the Commissioner must, as soon as practicable, take the action necessary to give effect to the decision in relation to any—

(a) formula assessment that has been made in relation to the child, the receiving carer, and the liable parent concerned (whether by amending the assessment or otherwise); or

(b) exemption granted under this Act in relation to the payee and the liable person concerned (whether by amending an assessment or otherwise).

(2) Subject to subsection (3), in subsequently making an assessment in relation to the child, the payee, and the liable person concerned while the order is in force, the Commissioner must act on the basis of the provisions of this Act as modified by the order.

(3) Despite subsection (2), if the Commissioner becomes aware of a change in circumstances which, had that change occurred before the making of that order, could reasonably be expected to have resulted in the order being different from that which was made, the Commissioner may—

(a) amend an existing formula assessment in relation to the child, the receiving carer, and the liable parent concerned to reflect that change in any manner that the Commissioner considers appropriate; or

(b) in subsequently making a formula assessment in relation to the child, the receiving carer, and the liable parent concerned while the order is in force, act on the basis of the provisions of this Act as modified to reflect the tenor of the order and the change in circumstances that has occurred since the order was made.

Section 103E: inserted, on 26 September 2006, by section 25 of the Child Support Amendment Act 2006 (2006 No 42).

Section 103E(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 103E(1)(a): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 103E(3)(a): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 103E(3)(b): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Orders for departure from formula assessment in special circumstances

104 Application for departure from formula assessment in special circumstances

(1) A receiving carer or a liable parent may apply to the Family Court for an order that all or some of the provisions of this Act relating to the formula assessment of child support be departed from in relation to a child.

(2) An application may be made only if—

(a) a formula assessment is in force in relation to the child, the receiving carer, and the liable parent concerned; and

(b) either—

(i) the Commissioner has made a determination under Part 6A in relation to the matter and the person who applies under this section is the person who applied for that determination; or

(ii) the Commissioner has refused to make a determination under Part 6A in relation to the matter; or

(iia) the Commissioner has refused to make a determination under Part 6B in relation to the matter after having commenced proceedings under that Part; or

(iii) the receiving carer or the liable parent are parties to another application pending in the Family Court and a Family Court Judge or Family Court Associate is satisfied that it would be appropriate for the court to consider an application made under this section at the same time as it hears the other application; or

(iv) the application relates, wholly or in part, to child support payable in the child support year ending on 31 March 1994 or any earlier child support year.

(3) Subject to section 125, the parties to the application are the liable parent and the receiving carer.

(4) Subject to section 117, the fact that an application is made by any person under this section does not suspend, interfere with, or affect—

(a) any formula assessment made in relation to the person; or

(b) the obligation to pay child support; or

(c) the right of the Commissioner to receive and recover any child support.

Section 104(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 104(1): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 104(2): substituted (with effect on 1 July 1994), on 15 July 1994, by section 6(1) of the Child Support Amendment Act 1994 (1994 No 74).

Section 104(2)(a): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 104(2)(b)(i): amended, on 26 September 2006, by section 26(1) of the Child Support Amendment Act 2006 (2006 No 42).

Section 104(2)(b)(ii): amended, on 26 September 2006, by section 26(2) of the Child Support Amendment Act 2006 (2006 No 42).

Section 104(2)(b)(iia): inserted, on 26 September 2006, by section 26(3) of the Child Support Amendment Act 2006 (2006 No 42).

Section 104(2)(b)(iii): amended, on 6 October 2023, by section 38 of the Family Court (Family Court Associates) Legislation Act 2023 (2023 No 25).

Section 104(2)(b)(iii): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 104(2)(b)(iii): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 104(3): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

105 Matters as to which court must be satisfied before making order

(1) Where an application is made to the Family Court under section 104 for an order in relation to a child and the court is satisfied that—

(a) 1 or more of the grounds for departure mentioned in subsection (2) exists or exist; and

(b) it would be—

(i) just and equitable as regards the child, the receiving carer, and the liable parent; and

(ii) otherwise proper,—

to make a particular order of the type specified in section 106,—

the court may make the order.

(2) For the purposes of subsection (1)(a), the grounds for departure are as follows:

(a) that, by virtue of special circumstances, the capacity of either parent to provide financial support for the child is significantly reduced because of—

(i) the duty of the parent to maintain any other child or another person; or

(ii) special needs of any other child or another person that the parent has a duty to maintain; or

(iii) commitments of the parent necessary to enable the parent to support—

(A) himself or herself; or

(B) any other child or another person whom the parent has a duty to maintain; or

(b) that, in the special circumstances of the case, the costs of maintaining the child are significantly affected because—

(i) of high costs incurred by a parent or a receiving carer in enabling a parent or receiving carer to have contact with the child; or

(ii) of special needs of the child; or

(iii) the child is being cared for, educated, or trained in the manner that was expected by either of his or her parents; or

(c) that, by virtue of special circumstances, application in relation to the child of the provisions of this Act relating to formula assessment of child support would result in an unjust and inequitable determination of the level of financial support to be provided by the liable parent for the child because of—

(i) the income, earning capacity, property, and financial resources of either parent or the child; or

(ii) any payments, and any transfer or settlement of property, previously made (whether under this Act, the Property (Relationships) Act 1976 or otherwise) by the liable parent or a receiving carer to the child, to a liable parent or a receiving carer, or to any other person for the benefit of the child; or

(iii) an entitlement of the liable parent or receiving carer to the continued occupancy of a property in which the liable parent or receiving carer has a financial interest; or.

Re-establishment costs situation if income increases

(d) that the application in relation to the child of the provisions of this Act relating to formula assessment of child support would result in an unjust and inequitable determination of the level of child support to be provided by the liable parent for the child in respect of a child support year because—

(i) the adjusted income of a parent of the child for the child support year includes income from relevant additional work (*see* subsections (3A) to (3C)); and

(ii) some or all of the income from relevant additional work has been used, or will be used, by the parent to meet, wholly or partly, actual and reasonable costs incurred to re-establish himself or herself, and any child or other person that he or she has a duty to maintain, after the child's parents ceased to live together in a marriage, civil union, or de facto relationship.

(e) *[Repealed]*

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

(3A) In subsection (2)(d), **relevant additional work** means work done by the parent during the relevant 3-year period that, in quantity or nature or both, is additional to work that he or she did before the child's parents ceased to live together in a marriage, civil union, or de facto relationship.

(3B) In subsection (3A), **the relevant 3-year period** means the 3-year period starting on the date on which the child's parents ceased to live together in a marriage, civil union, or de facto relationship.

(3C) For the purpose of calculating that 3-year period, the court may exclude a period or periods of resumed cohabitation with, or each with, the sole or main motive of reconciliation if that period does not exceed, or those periods in aggregate do not exceed, 3 months.

(3D) The ground in subsection (2)(d) applies only in relation to child support in respect of the child support year starting on 1 April 2016 or a later child support year.

(4) In determining whether it would be just and equitable as regards the child, a receiving carer, and the liable parent to make a particular order of the type specified in section 106, the court shall have regard to—

(a) the objects of this Act, and, in particular, the nature of the duty of a parent to maintain a child and the fact that it is the parents of a child themselves who have the primary duty to maintain the child; and

(b) the proper needs of the child, having regard to—

(i) the manner in which the child is being, and in which the parents expect the child to be, cared for, educated, or trained; and

(ii) any special needs of the child; and

(c) the income, earning capacity, property, and financial resources of the child; and

(d) the income, earning capacity, property, and financial resources of each parent who is a party to the proceeding; and

(e) the commitments of each parent who is a party to the proceeding that are necessary to enable the parent to support—

(i) himself or herself; or

(ii) any other child or another person that the parent has a duty to maintain; and

(f) the direct and indirect costs incurred by the receiving carer in providing care for the child, including the income and earning capacity foregone by the receiving carer in providing that care; and

(g) any hardship that would be caused to—

(i) the child or the receiving carer by the making of, or the refusal to make, the order; or

(ii) the liable parent, or any other child or another person that the liable parent has a duty to support, by the making of, or the refusal to make, the order.

(5) In having regard to the income, earning capacity, property, and financial resources of the child or a parent of the child, the court must—

(a) have regard to the capacity of the child or parent to earn or derive income, including having regard to any assets of, under the control of, or held for the benefit of, the child or parent that do not produce, but are capable of producing, income; and

(b) disregard the income, earning capacity, property, and financial resources of any person who does not have a duty to maintain the child, or who has such a duty but is not a party to the proceeding, unless, in the special circumstances of the case, the court considers that it is appropriate to have regard to them.

(6) The court may have regard to other matters beyond those specified in subsections (4) and (5).

(7) The jurisdiction of the Family Court under this section may be exercised by a Family Court Judge or Family Court Associate, and for the purposes of this section a Family Court Associate has the same powers as a Family Court Judge.

Compare: Child Support (Assessment) Act 1989 s 117 (Aust)

Section 105(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 105(1)(b)(i): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 105(2)(b)(i): replaced, on 1 April 2015, by section 25(1) of the Child Support Amendment Act 2013 (2013 No 12).

Section 105(2)(c)(ii): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 105(2)(c)(ii): amended, on 1 February 2002, by section 64(2) of the Property (Relationships) Amendment Act 2001 (2001 No 5).

Section 105(2)(c)(iii): amended, on 25 February 2016, by section 40(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 105(2)(c)(iii): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 105(2)(d) heading: inserted, on 25 February 2016, by section 40(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 105(2)(d): inserted, on 25 February 2016, by section 40(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 105(2)(d)(i): amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 105(2)(d)(ii): amended, on 1 April 2016, by section 40(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 105(2)(e) heading: repealed, on 26 October 2021, by section 36 of the Child Support Amendment Act 2021 (2021 No 6).

Section 105(2)(e): repealed, on 26 October 2021, by section 36 of the Child Support Amendment Act 2021 (2021 No 6).

Section 105(3): replaced, on 1 April 2015, by section 25(2) of the Child Support Amendment Act 2013 (2013 No 12).

Section 105(3): amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 105(3A): inserted, on 25 February 2016, by section 40(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 105(3B): inserted, on 25 February 2016, by section 40(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 105(3C): inserted, on 25 February 2016, by section 40(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 105(3D): inserted, on 25 February 2016, by section 40(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 105(4): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 105(4)(f): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 105(4)(g)(i): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 105(7): inserted, on 6 October 2023, by section 39 of the Family Court (Family Court Associates) Legislation Act 2023 (2023 No 25).

106 Orders that may be made

(1) In determining an application made under section 104, a Family Court Judge or Family Court Associate exercising the jurisdiction of the Family Court may make any of the following orders:

(a) an order departing from some or all of the provisions of this Act by substituting a different amount for any of the following amounts as they relate to a formula assessment, or prescribing an amount or a percentage by which any of those amounts must be varied:

(i) a person's adjusted income:

(ii) a person's living allowance:

(iii) a person's dependent child allowance:

(iv) a person's child support income amount:

(v) the child expenditure amount applying in respect of a qualifying child:

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

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

(ii) prescribing an amount or a percentage by which the annual amount of child support payable by a liable parent must vary from the amount determined under a formula assessment:

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

(2) An order under this section may make different provision in relation to different child support years and in relation to different parts of a child support year.

(3) Subject to section 98(2), an order made under this section shall not operate so as to increase or reduce the amount of child support payable in relation to any child to whom the order does not apply, and the child support payable in relation to any such other child shall be calculated as if the order had not been made.

(4) Every order made under this section shall specify the period of time in which the order is to apply or specify the event the occurrence of which will cause the order to terminate.

Compare: Child Support (Assessment) Act 1989 s 118 (Aust)

Section 106(1): replaced, on 1 April 2015, by section 26 of the Child Support Amendment Act 2013 (2013 No 12).

Section 106(1): amended, on 6 October 2023, by section 40 of the Family Court (Family Court Associates) Legislation Act 2023 (2023 No 25).

Section 106(1)(a)(i): amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

106A Further provision on orders for re-establishment costs situations if income increases

The amount that an order under section 106 on the ground in section 105(2)(d) excludes, or in effect excludes, from the parent's adjusted income is not to exceed the lesser of the following:

(a) so much of the income from relevant additional work as has been used, or will be used, by the parent as referred to in section 105(2)(d)(ii):

(b) 30% of the parent's adjusted income.

Section 106A: inserted, on 25 February 2016, by section 41(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 106A: amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 106A(b): amended, on 1 April 2022, by section 9(2) of the Child Support Amendment Act 2021 (2021 No 6).

106B Further provision on orders for offsetting of liabilities situations

[Repealed]

Section 106B: repealed, on 26 October 2021, by section 37 of the Child Support Amendment Act 2021 (2021 No 6).

107 Implementation of orders

(1) When an order determining an application under section 104 becomes final, the Commissioner shall, as soon as practicable, take such action as is necessary to give effect to the decision in relation to any formula assessment that has been made in relation to the child, the receiving carer, and the liable parent concerned (whether by amending the assessment or otherwise).

(2) Subject to subsection (3), in subsequently making a formula assessment in relation to the child, the receiving carer, and the liable parent concerned while the order is in force, the Commissioner shall act on the basis of the provisions of this Act as modified by the order.

(3) Notwithstanding subsection (2), where the Commissioner becomes aware of a change in circumstances which, had that change occurred prior to the making of that order, could reasonably be expected to have resulted in the order being different from that which was made, the Commissioner may—

(a) amend an existing formula assessment in relation to the child, the receiving carer, and the liable parent concerned to reflect that change in such manner as the Commissioner considers appropriate; or

(b) in subsequently making a formula assessment in relation to the child, the receiving carer, and the liable parent concerned while the order is in force, act on the basis of the provisions of this Act as modified to reflect the tenor of the order and the change in circumstances that has occurred since the order was made.

(4) Without limiting subsections (1) to (3), the Commissioner may, in taking action under any of those subsections, apply some or all of the provisions of this Act relating to the amount of child support payable in relation to a receiving carer under a formula assessment (for example, sections 36A to 36C) with the modifications the Commissioner considers necessary to achieve fully the intention of the court's order.

Compare: Child Support (Assessment) Act 1989 s 119 (Aust)

Section 107(1): amended, on 6 October 2023, by section 41 of the Family Court (Family Court Associates) Legislation Act 2023 (2023 No 25).

Section 107(1): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 107(2): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 107(3)(a): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 107(3)(b): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 107(4): inserted, on 25 February 2016, by section 42 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Orders for provision of child support in form of lump sum

108 Application for order for provision of child support in form of lump sum

(1) Where a receiving carer wants a liable parent to provide, or a liable parent wants to provide, child support for a child otherwise than in the form of periodic amounts paid to the receiving carer, the receiving carer or the liable parent may apply to the Family Court for an order that the liable parent provide child support for the child otherwise than in the form of periodic amounts paid to the receiving carer.

(2) An application—

(a) may be made only if a formula assessment is in force in relation to the child, the receiving carer, and the liable parent; and

(b) may be made by the receiving carer or the liable parent.

(3) The Family Court may not hear the application until the following applications, proceedings, or appeals that are still pending have been heard and determined:

(a) an application to the Commissioner under subpart 3 of Part 5A:

(b) an application to the Commissioner under section 96B:

(c) proceedings started by the Commissioner under section 96V:

(d) an application to the court under section 104:

(e) an appeal under any of sections 103A to 103C.

(4) Subject to section 125, the parties to the application are the receiving carer and the liable parent.

Compare: Child Support (Assessment) Act 1989 ss 122, 123 (Aust)

Section 108(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 108(1): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 108(2)(a): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 108(2)(b): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 108(3): substituted, on 26 September 2006, by section 27 of the Child Support Amendment Act 2006 (2006 No 42).

Section 108(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 108(4): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

109 Orders for provision of child support in form of lump sum

(1) Where a receiving carer or a liable parent makes an application to the Family Court under section 108 and the court is satisfied that it would be—

(a) just and equitable as regards the child, the receiving carer, and the liable parent; and

(b) otherwise proper,—

to make an order that the liable parent pay a lump sum towards the support of the child, the court may make the order.

(2) The Family Court may make either one, or both, of the following orders under this section:

(a) an order directing the respondent to pay such lump sum towards the future support of the child as the court thinks fit:

(b) an order directing the respondent to pay such lump sum towards the past support of the child as the court thinks fit.

(3) In determining the application, the court must have regard to—

(a) the formula assessment in force in relation to the child, the receiving carer, and the liable parent; and

(aa) any determination in force under Part 5A, or 6A, or 6B in relation to the child, the receiving carer, and the liable parent; and

(b) any order in force under section 106 in relation to the child, the receiving carer, and the liable parent; and

(c) the matters mentioned in section 105(4) and (5); and

(d) the relationship between any lump sum order and any liability to pay child support under a formula assessment, as determined in accordance with section 110.

(4) The court may have regard to other matters beyond those specified in subsection (3).

(5) The Commissioner shall, as soon as practicable, take such action as is necessary to give effect to any order made under this section.

Compare: Child Support (Assessment) Act 1989 s 124 (Aust)

Section 109(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 109(1): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 109(1)(a): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 109(3)(a): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 109(3)(aa): inserted (with effect on 1 July 1994), on 15 July 1994, by section 6(1) of the Child Support Amendment Act 1994 (1994 No 74).

Section 109(3)(aa): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 109(3)(aa): amended, on 26 September 2006, by section 28 of the Child Support Amendment Act 2006 (2006 No 42).

Section 109(3)(b): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

110 Relationship between lump sum orders and assessed child support

(1) Where—

(a) a liable parent is liable to provide child support to a receiving carer in respect of a child under a lump sum order made under section 109; and

(b) the liable parent is also liable to pay child support to that receiving carer in respect of that child under a formula assessment,—

the court shall provide that the liable parent's liability to provide child support under the lump sum order shall be credited against his or her liability to pay child support under the formula assessment for any period to which the lump sum order relates unless the court is satisfied that, in the special circumstances of the case, it would be—

(c) just and equitable as regards the child, the liable parent, and the receiving carer; and

(d) otherwise proper,—

that the child support should not be so credited.

(2) The court shall state in the lump sum order whether or not any such credit has been given.

(3) If the court states in the order that the child support is to be credited against the liable parent's liability under any relevant formula assessment, the court must also state in the order either—

(a) that the child support has an annual value of a specified amount and that the annual rate of the child support payable under any relevant formula assessment is to be reduced by that amount (but not in a child support year below the minimum annual rate for that year under section 72(1)(a)); or

(b) that the child support is to count for a specified percentage of the annual rate of child support payable under any relevant formula assessment.

(4) The court may, under subsections (1) and (3), make different provision in relation to different child support years and in relation to different parts of a child support year.

(5) In making a determination under subsection (1)(d), the court must have regard to the matters mentioned in section 105(4) and (5).

(6) The court may have regard to other matters beyond those specified in subsection (5).

(7) Subject to section 98(2), an order made under this section shall not operate so as to increase or reduce the amount of child support payable in relation to any child to whom the order does not apply, and the child support payable in relation to any such other child shall be calculated as if the order had not been made.

Compare: Child Support (Assessment) Act 1989 s 125 (Aust)

Section 110(1)(a): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 110(1)(b): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 110(1)(c): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 110(3)(a): amended, on 7 November 2001, by section 5(2) of the Child Support Amendment Act 2001 (2001 No 90).

111 Effect of lump sum orders on formula assessment of child support

(1) If the Family Court makes an order under section 109 that includes a statement that the child support ordered to be provided by the liable parent is to be credited against the liable parent's liability under any relevant formula assessment, when the decision of the court making the order becomes final, the Commissioner shall, as soon as practicable, take such action as is necessary to give effect to the order in relation to any relevant formula assessment that has been made (whether by amending the assessment or otherwise).

(2) In subsequently making a relevant formula assessment, the Commissioner shall—

(a) calculate what would, apart from the application of the order, be the annual rate of child support payable by the liable parent to the receiving carer entitled to child support; and

(b) reduce that annual rate by the amount or percentage specified in the statement included in the order under section 110(3); and

(c) make the assessment on the basis of that reduced annual rate.

Compare: Child Support (Assessment) Act 1989 s 127 (Aust)

Section 111(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 111(2)(a): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Discharge, suspension, revival, and variation of orders

112 Discharge, suspension, revival, and variation of orders

(1) A receiving carer or a liable parent or the Commissioner may apply to the Family Court for an order to discharge, suspend, revive, or vary any order made by the Family Court under section 103D or section 106 or section 109.

(2) If an order under section 103D or section 106 or section 109 is in force in relation to a child (whether or not all things ordered to be done by the order have been done), the Family Court may, on receipt of an application made under subsection (1) or where it is satisfied that it ought to do so, by order—

(a) discharge the order; or

(b) suspend its operation wholly or in part and either until a further order or until a fixed time or the happening of a future event; or

(c) if the operation of the order has been suspended under paragraph (b), revive its operation wholly or in part; or

(d) subject to subsection (3), vary the order (including any statement included in the order under section 110) in any way, but not—

(i) in a way that is inconsistent with the provisions of the section under which the order was made; or

(ii) so as to reduce the liability of any person to pay child support in a child support year below the equivalent of an annual rate that is equal to the minimum annual rate for that year under section 72(1)(a).

(3) The court shall not discharge, suspend, revive, or vary an order under subsection (1) unless the court is satisfied, having regard in particular to any statement included in the order under section 110, that it would be—

(a) just and equitable as regards the child, the receiving carer, and the liable parent concerned; and

(b) otherwise proper,—

to make the order.

(4) The court shall not, by any order under this section, vary an order unless it is also satisfied—

(a) that making the variation is justified because of a change in the circumstances of the child, the receiving carer, or a liable parent concerned since the order was made or last varied; or

(b) that making the variation is justified because of a change in the all groups index number of the Consumers Price Index since the order was made or last varied; or

(c) in a case where the order was made by consent, that the order is not proper or adequate; or

(d) that material facts were withheld from the court that made the order or from a court that varied the order, or that material evidence previously given before such a court was false.

(5) If the court proposes to vary the order otherwise than by varying any statement included in the order under section 110, the court must consider whether,

having regard to the proposed variation, it should also order the variation of any such statement.

(6) In determining whether to make an order under this section, the court must have regard to the matters mentioned in section 105(4) and (5).

(7) The court may have regard to other matters beyond those specified in subsection (6).

(8) The court must not, in considering the variation of an order, have regard to a change in the all groups index number of the Consumers Price Index unless at least 12 months have elapsed since the order was made, or was last varied having regard to such a change.

(9) In satisfying itself for the purposes of subsection (4)(c), the court must have regard to any payments, and any transfer or settlement of property, previously made by the liable parent to the child, to the receiving carer, or to any other person for the benefit of the child.

(10) The discharge of an order does not affect the recovery of arrears due under the order, or under this Act, when the discharge takes effect.

Compare: Child Support (Assessment) Act 1989 s 129 (Aust)

Section 112(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 112(1): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 112(1): amended, on 26 September 2006, by section 29(1) of the Child Support Amendment Act 2006 (2006 No 42).

Section 112(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 112(2): amended, on 26 September 2006, by section 29(2) of the Child Support Amendment Act 2006 (2006 No 42).

Section 112(2)(d)(ii): substituted, on 7 November 2001, by section 5(2) of the Child Support Amendment Act 2001 (2001 No 90).

Section 112(3)(a): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 112(4)(a): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 112(4)(b): amended, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Section 112(8): amended, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Section 112(9): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Orders to set aside voluntary agreements

113 Power to set aside agreements

(1) The Family Court may set aside a voluntary agreement if the court is satisfied, on application by a party to the agreement, that the concurrence of the party

was obtained by fraud or undue influence or that the party was influenced in his or her decision to enter into the agreement by a mistake that was material to him or her.

(2) Subject to section 125, the parties to a proceeding under subsection (1) of this section are the parties to the agreement.

(3) Where a voluntary agreement is set aside under subsection (1), the Family Court may make such orders as it considers just and equitable for the purpose of preserving or adjusting the rights of the party concerned or, as the case may be, the child concerned or a person who is or was a receiving carer, or a liable parent, in relation to the child.

(4) An order under subsection (3) may be made in the proceedings in which the order is set aside or in other proceedings brought on the application of a person who is or was a receiving carer, or a liable parent, in relation to the child concerned.

(5) The Commissioner shall, as soon as practicable, take such action as is necessary to give effect to the order.

Compare: Child Support (Assessment) Act 1989 ss 136, 137 (Aust)

Section 113(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 113(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 113(3): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 113(3): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 113(4): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

114 Implementation of decision

The Commissioner shall, as soon as practicable, take such action as is necessary to give effect to any decision made under section 113 or any order made under subsection (3) of that section (whether by amending any assessment or otherwise).

Compare: Child Support (Assessment) Act 1989 s 138 (Aust)

Effect of pending appeals

115 Pending appeal or application not to affect assessment

(1) Subject to section 117, the fact that a proceeding is pending in relation to an appeal made by any person under section 102 or section 103, 103A, 103B, or 103C, or in relation to an application made by any person under section 104 or section 108 or section 112 or section 117, does not suspend, interfere with, or affect—

(a) any assessment made in relation to the person; or

(b) the obligation to pay financial support; or

(c) the right of the Commissioner to receive and recover any financial support.

(2) Subsection (1) does not apply in relation to a person if—

(a) the person has made an appeal under section 102 in relation to a child; and

(b) a ground of the appeal is that the person was not a parent of the child; and

(c) there is not a final decision of a court determining that ground of the appeal.

Compare: Child Support (Assessment) Act 1989 s 135 (Aust)

Section 115(1): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 115(1): amended, 26 September 2006, by section 30 of the Child Support Amendment Act 2006 (2006 No 42).

Section 115(2)(a): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Suspension orders

Heading: amended, on 1 April 2021, by section 38 of the Child Support Amendment Act 2021 (2021 No 6).

116 Urgent maintenance orders

[Repealed]

Section 116: repealed, on 1 April 2021, by section 39 of the Child Support Amendment Act 2021 (2021 No 6).

117 Suspension orders

(1) Where a proceeding has been instituted in the Family Court or an objection has been made under Part 6, a party to the proceeding may apply to the court for an order under this section.

(2) If the court considers that it is desirable to do so taking into account the interests of the persons who may be affected by the outcome of the proceeding, the court may make such order suspending or altering the liability of any person to make payments under this Act as the court considers appropriate pending the hearing and final determination of the proceeding.

(3) The court may, by order, vary or revoke an order made under subsection (2).

(4) An order under subsection (2)—

(a) is subject to such terms and conditions as are specified in the order; and

(b) operates for such period as is specified in the order or, if no period is specified, until the decision of the court determining the proceeding becomes final.

(5) An application under this section may be made and dealt with *ex parte* if the court is satisfied that the delay that would result if service on the payee or on the Commissioner were required would cause hardship to the party instituting the proceeding.

(6) The jurisdiction of the Family Court under this section may be exercised by—

(a) a Family Court Judge; or

(b) a Family Court Associate having the same powers as a Family Court Judge.

Compare: Child Support (Assessment) Act 1989 s 140 (Aust)

Section 117(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 117(6): inserted, on 6 October 2023, by section 42 of the Family Court (Family Court Associates) Legislation Act 2023 (2023 No 25).

Provisions relating to court orders

118 General powers of court

(1) In exercising its powers under this Act, a court may, in addition to making an order under any of the provisions of this Part, do all or any of the following:

(a) order that payment of an amount ordered to be paid be wholly or partly secured as the court specifies:

(b) order that any necessary deed or instrument be executed, and that such documents of title be produced and such other things be done, as are necessary to enable an order to be carried out effectively or to provide security for the due performance of an order:

(c) order that payment be made to a specified person or public authority or into court:

(d) make a permanent order, an order pending the disposal of proceedings, an order for a fixed period, an order until a child attains a specified age, or an order until a further order:

(e) make an order expressed to be retrospective to such day as the court considers appropriate not being a day that precedes the later of—

(i) 1 July 1992; or

(ii) the day on which the application for formula assessment to which the order applies was made:

(f) make an order imposing terms and conditions:

(g) make an order at any time.

(2) Neither the dismissal of an application or appeal under this Act by the Family Court or the District Court, nor the refusal of the Family Court or the District Court to make an order under this Act, shall be a bar to the making of a further

application or appeal in the same matter and against the same or any other respondent by the same or any other applicant or appellant.

(3) Where an order has been made or refused on an application or appeal under this Act, the court may, on the application of the applicant, appellant, or respondent, grant a rehearing of the application or appeal on such conditions as it thinks fit.

(4) Rules of court may make provision with respect to the making of orders under this Act (whether as to their form or otherwise) for the purpose of facilitating their enforcement and the collection of any financial support payable under them.

Compare: Child Support (Assessment) Act 1989 s 141 (Aust)

Section 118(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

119 Cessation of orders under Act

(1) An order made under this Act in relation to a qualifying child shall cease to be in force,—

(aa) in the case of an order made under section 103D, on the expiry of the order in accordance with section 103D(5):

(a) in the case of an order made under section 106, on the expiry of the order in accordance with subsection (4) of that section:

(b) in the case of any other order relating to a liable parent's liability to pay child support under a formula assessment, on the date on which the parent ceases to be liable to pay child support in respect of the child under section 25:

(c) in any other case, if—

(i) the person on whose application the order was made—

(A) dies; or

(B) ceases to be a receiving carer of the child; or

(ii) the person against whom the order was made dies.

(2) An order made under this Act in relation to domestic maintenance shall cease to be in force if—

(a) the person who is the payee dies; or

(b) the person who is the liable person dies.

(3) Nothing in this section affects the recovery of arrears due under an order which ceases to be in force.

Compare: Child Support (Assessment) Act 1989 s 142 (Aust)

Section 119(1)(aa): inserted, on 26 September 2006, by section 31 of the Child Support Amendment Act 2006 (2006 No 42).

Section 119(1)(c)(i)(B): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 119(2): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 119(2): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 119(2)(a): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 119(2)(b): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Miscellaneous provisions

120 Appeal from decisions of courts

(1) A party to the proceeding may appeal to the High Court against an order or declaration of the Family Court made under this Act.

(1AA) However, no appeal may be made to the High Court under subsection (1) in relation to a decision under—

(a) section 226 to appoint a lawyer to represent a child; or

(b) section 226A to appoint, or to direct the Registrar to appoint, a lawyer to assist the court.

(1A) The High Court Rules 2016 and sections 126 to 130 of the District Court Act 2016, with all necessary modifications, apply to an appeal under subsection (1) as if it were an appeal under section 124 of that Act.

(2) On the *ex parte* application of the appellant, the Family Court may order that the appellant must not be required under section 126(1) of the District Court Act 2016 to give the Registrar of the High Court security for costs.

(2A) Subsection (2) overrides subsection (1A).

(3) The Commissioner may appeal to the High Court against an order or declaration of the Family Court made under this Act in relation to any of the matters specified in section 102 or 103.

(3A) The High Court Rules 2016 and sections 127 to 130 of the District Court Act 2016, with all necessary modifications, apply to an appeal under subsection (3) as if it were an appeal under section 124 of that Act.

(4) With the leave of the Court of Appeal, a party to an appeal under subsection (1) or subsection (3) may appeal to the Court of Appeal against all or part of any determination of the High Court made in the appeal.

(5) On an appeal to the Court of Appeal under this section, the Court of Appeal shall have the same power to adjudicate on the proceeding as the High Court had.

(6) *[Repealed]*

(7) *[Repealed]*

(8) Subject to section 117, the fact that a proceeding is pending in relation to an appeal made by any person under this section does not suspend, interfere with, or affect—

(a) an assessment made in relation to the person; or

(b) the obligation to pay financial support; or

(c) the right of the Commissioner to receive and recover any financial support.

Compare: 1964 No 136 s 27T; 1980 No 157 s 7

Section 120(1): substituted, on 24 November 2003, by section 4 of the District Courts Amendment Act 2002 (2002 No 63).

Section 120(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 120(1AA): inserted, on 31 March 2014, by section 4 of the Child Support Amendment Act (No 3) 2013 (2013 No 75).

Section 120(1A): replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 120(2): substituted, on 24 November 2003, by section 4 of the District Courts Amendment Act 2002 (2002 No 63).

Section 120(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 120(2A): inserted, on 24 November 2003, by section 4 of the District Courts Amendment Act 2002 (2002 No 63).

Section 120(3): substituted, on 24 November 2003, by section 4 of the District Courts Amendment Act 2002 (2002 No 63).

Section 120(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 120(3): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 120(3): amended, on 1 January 2004, by section 47 of the Supreme Court Act 2003 (2003 No 53).

Section 120(3A): replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 120(4): substituted, on 1 January 2004, by section 47 of the Supreme Court Act 2003 (2003 No 53).

Section 120(6): repealed, on 1 January 2004, by section 47 of the Supreme Court Act 2003 (2003 No 53).

Section 120(7): repealed, on 1 January 2004, by section 47 of the Supreme Court Act 2003 (2003 No 53).

121 Evidence on hearing of appeal against disallowance

Where a court is considering an appeal under this Act against the disallowance by the Commissioner (in whole or in part) of an objection made under section 90, the objector shall not, without leave of the court, be entitled to plead or adduce evidence in support of any ground of objection not specified in the objector's notice of objection.

Compare: 1964 No 136 s 27R(4); 1980 No 157 s 7

122 UCB beneficiary is compellable witness against liable parent

(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.

(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.

Compare: 1964 No 136 s 27R(6); 1980 No 157 s 7

Section 122: replaced, on 1 July 2023, by section 12 of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

123 Conduct of proceedings

(1) The business of courts and of Judges shall, so far as is consistent with the due despatch of business, be arranged in such a manner as may be necessary for the separating of the hearing of proceedings under this Act from other business.

(2) Section 11A of the Family Court Act 1980 applies to the hearing of any application or appeal under this Act—

(a) in the Family Court:

(b) in any other court, in which case—

(i) references in that section to the Family Court or court must be read as references to that other court; and

(ii) references in that section to the Family Court Judge or the Judge must be read as references to the Judge presiding at the hearing.

(3) *[Repealed]*

(4) *[Repealed]*

Compare: 1964 No 136 s 27U; 1980 No 94 s 159; 1980 No 157 s 7

Section 123(2): substituted, on 18 May 2009, by section 7 of the Child Support Amendment Act 2008 (2008 No 75).

Section 123(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 123(2)(a): replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 123(3): repealed, on 18 May 2009, by section 7 of the Child Support Amendment Act 2008 (2008 No 75).

Section 123(4): repealed, on 18 May 2009, by section 7 of the Child Support Amendment Act 2008 (2008 No 75).

124 Publication of reports of proceedings

Sections 11B to 11D of the Family Court Act 1980 apply to the publication of a report of any proceedings under this Part—

(a) in the Family Court:

(b) in any other court, in which case references in those sections to the Family Court or court must be read as references to that other court.

Section 124: substituted, on 18 May 2009, by section 8 of the Child Support Amendment Act 2008 (2008 No 75).

Section 124: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 124(a): replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

125 Intervention in proceedings

(1) The Commissioner may intervene in, and contest and argue any question arising in, a proceeding under this Act to which he or she is not otherwise a party.

(2) Any parent or carer of a child in respect of whom child support is sought, or any person by whom, or from whom, financial support is sought, may intervene in, and contest and argue any question arising in, a proceeding under this Act which relates to that child support or financial support and to which he or she is not otherwise a party.

(3) If a person intervenes in a proceeding under this Act, the person is to be taken to be a party to the proceedings with all the rights, duties, and liabilities of a party.

Compare: Child Support (Assessment) Act 1989 s 145 (Aust)

Section 125(2): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

126 Copies of orders to be forwarded to Commissioner

Where a court makes an order under this Act, the Registrar or other responsible officer of the court shall, within 14 days after the day on which the order is made, send a certified or sealed copy of the order to the Commissioner.

127 Orders by consent

In any proceeding before it under this Act, the Family Court or the District Court may make any order under this Act by the consent of all the parties to the proceeding.

Compare: 1980 No 94 s 170

Section 127: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Part 8
Collection of financial support

Financial support is debt due to the Crown

128 Debt due to the Crown

Any amount of financial support payable under this Act (including any penalty or interest imposed thereon) is a debt due to the Crown.

Method in which financial support to be collected

129 Right to choose voluntary automatic deductions or other payment method

(1) Subject to sections 129A to 131, any person who is liable to pay financial support under this Act must pay the money so payable to the Commissioner—

(a) by way of automatic deduction under Part 10 from source deduction payments paid by an employer of the person, if the conditions in subsection (2) are met; or

(b) if those conditions are not met, by any other payment method acceptable to the Commissioner.

(2) The conditions are that—

(a) the person is, or will be, the recipient of source deduction payments from the employer; and

(b) the person chooses, in a way acceptable to the Commissioner, for deductions in respect of future payments of financial support to be made from source deduction payments paid by the employer; and

(c) the Commissioner does not consider automatic deductions inappropriate in the person's case.

Section 129: replaced, on 25 February 2016, by section 43 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 129(1): amended, on 26 October 2021, by section 40 of the Child Support Amendment Act 2021 (2021 No 6).

129A Newly liable persons to pay financial support by automatic deduction

(1) This section applies to a liable person who receives an assessment unless—

(a) the person is already paying financial support under this Act (for example, in respect of another child) by another payment method acceptable to the Commissioner; and

(b) the person is not in default of their obligations under this Act.

(2) Section 129 does not apply and payments of financial support must be paid—

(a) by way of automatic deduction under Part 10 from source deduction payments paid by an employer of the person; or

(b) if the Commissioner considers automatic deduction inappropriate in the person's case, by another payment method acceptable to the Commissioner.

Section 129A: inserted, on 26 October 2021, by section 41 of the Child Support Amendment Act 2021 (2021 No 6).

130 Defaulters to pay child support by automatic deduction

Where any person makes default in any payment of financial support under this Act,—

(a) section 129 shall cease to apply in respect of that payment and shall not apply in respect of any further payment of financial support required to be made by that person, whether in that child support year or in any future child support year; and

(b) that payment, and those further payments, of financial support are to be paid—

(i) by way of automatic deduction under Part 10; or

(ii) if the Commissioner considers automatic deduction inappropriate in the person's case, by another payment method acceptable to the Commissioner.

Section 130(b): replaced, on 25 February 2016, by section 44 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

131 Social security beneficiaries to pay financial support by automatic deduction

Where any person who is required to pay financial support under this Act is in receipt of any social security benefit,—

(a) section 129 of this Act shall not apply; and

(b) payments of financial support shall be payable by way of automatic deduction under Part 10 of this Act from any instalment of any social security benefit to which the person is or may become entitled.

Section 131: amended, on 1 July 2023, by section 13(1) of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

Section 131(b): amended, on 1 July 2023, by section 13(2) of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

Due dates for payment of financial support

132 Due date for payment of financial support

(1) Subject to subsection (2) and section 133, the amount of financial support payable by a liable person in relation to any day in any month is a debt that is due and payable on the 20th of the following month.

(2) Subject to section 133, where in order either to comply with an order of the court or to facilitate the payment of financial support in instalments of other

than monthly duration, it is necessary for the financial support payable by a liable person in relation to any day in any month to be payable on a day other than the 20th day of the following month, the Commissioner shall set that day as the day on which that financial support is due and payable as is necessary in order to either enable compliance with the order of the court or to facilitate the payment of financial support in instalments of other than monthly duration.

133 Alteration to first due date where notice of assessment issued

(1) Where the Commissioner issues a notice of assessment of financial support payable by a liable person, the first amount of that financial support that is required to be paid by that liable person after that notice of assessment is issued is a debt that is due and payable on the later of—

(a) the day on which that amount would, but for this section, be payable by the liable person; or

(b) the day that is 30 days after the date of issue of that notice of assessment.

(2) This section does not apply in respect of an amended assessment to which the provisions of section 87(6) apply.

134 Penalties for late payment of financial support debts

Late payment penalties

(1) A person liable to pay a financial support debt (whether that debt is incurred before, on, or after 1 April 2016) is liable to pay to the Commissioner a penalty of the amount stated in subsection (2) or (3) if—

(a) the time stated in that subsection (which is a time after the time at which all of the debt became due and payable) occurs on or after 1 April 2016; and

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

Late payment penalty: due date

(2) At the expiry of the due date, the penalty is an amount equal to 2% of the amount of financial support remaining unpaid at the expiry of the due date.

Late payment penalty: 27th day after due date

(3) At the expiry of the 27th day after the due date, the penalty is an amount equal to 8% of so much (if any) of the amount of financial support (excluding the penalty imposed under subsection (2)) remaining unpaid at that expiry.

Incremental late payment penalty: first month after due date

[Repealed]

(4) *[Repealed]*

Incremental late payment penalty: first 11 later months

[Repealed]

(5) *[Repealed]*

Incremental late payment penalty: months after 1 year

[Repealed]

(6) *[Repealed]*

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

Section 134: replaced, on 1 April 2016, by section 39 of the Child Support Amendment Act 2013 (2013 No 12) (as amended by section 156 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4)).

Section 134(1) heading: amended, on 1 April 2021, by section 42(1) of the Child Support Amendment Act 2021 (2021 No 6).

Section 134(1): amended, on 1 April 2021, by section 42(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 134(2) heading: replaced, on 1 April 2021, by section 42(3) of the Child Support Amendment Act 2021 (2021 No 6).

Section 134(2): replaced, on 1 November 2021, by section 8(2) of the Taxation (Budget 2021 and Remedial Measures) Act 2021 (2021 No 19).

Section 134(3) heading: amended, on 1 November 2021, by section 8(4) of the Taxation (Budget 2021 and Remedial Measures) Act 2021 (2021 No 19).

Section 134(3) heading: amended, on 1 April 2021, by section 42(4) of the Child Support Amendment Act 2021 (2021 No 6).

Section 134(3): amended, on 1 November 2021, by section 8(4) of the Taxation (Budget 2021 and Remedial Measures) Act 2021 (2021 No 19).

Section 134(4) heading: repealed, on 1 April 2021, by section 42(6) of the Child Support Amendment Act 2021 (2021 No 6).

Section 134(4): repealed, on 1 April 2021, by section 42(6) of the Child Support Amendment Act 2021 (2021 No 6).

Section 134(5) heading: repealed, on 1 April 2021, by section 42(6) of the Child Support Amendment Act 2021 (2021 No 6).

Section 134(5): repealed, on 1 April 2021, by section 42(6) of the Child Support Amendment Act 2021 (2021 No 6).

Section 134(6) heading: repealed, on 1 April 2021, by section 42(6) of the Child Support Amendment Act 2021 (2021 No 6).

Section 134(6): repealed, on 1 April 2021, by section 42(6) of the Child Support Amendment Act 2021 (2021 No 6).

134AAA Sixty-day grace period before penalties apply

(1) This section applies to a liable person who receives an assessment unless—

(a) the person is already a liable person under an existing assessment; or

(b) the assessment is for a period in respect of which the person was a liable person.

(2) The person is not liable to pay to the Commissioner a penalty under section 134 in respect of a debt that becomes due and payable during a 60-day grace period.

(3) The grace period starts,—

(a) if the person is liable to pay financial support, on the first date on which a debt becomes due and payable under the assessment by the liable person in respect of a period starting on or after the commencement of this section:

(b) if the person is subject to a nil assessment, on the date of the assessment.

(4) The grace period ends with the expiry of 60 days after the grace period starts.

Section 134AAA: inserted, on 1 November 2021, by section 43 of the Child Support Amendment Act 2021 (2021 No 6).

134A Status of penalties under section 134

A penalty payable under section 134—

(a) is a debt due to the Crown; and

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

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

Section 134A: inserted, on 1 April 2016, by section 39 of the Child Support Amendment Act 2013 (2013 No 12).

134B Act's provisions on liable person's financial support debt also apply to payees' debts arising from overpayments

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

Section 134B: inserted, on 1 April 2016, by section 39 of the Child Support Amendment Act 2013 (2013 No 12).

Section 134B: amended, on 1 April 2021, by section 44 of the Child Support Amendment Act 2021 (2021 No 6).

Interpretation provision relating to relief from penalties

Heading: inserted, on 26 September 2006, by section 32(1) of the Child Support Amendment Act 2006 (2006 No 42).

135 Interpretation for purposes of sections 135A to 135G

For the purposes of sections 135A to 135G, unless the context otherwise requires,—

penalty means a penalty that is imposed under section 134, excluding a pre-2021 penalty

pre-2021 penalty means a penalty that is imposed under section 134 before 1 April 2021.

Section 135: replaced, on 1 April 2021, by section 45 of the Child Support Amendment Act 2021 (2021 No 6).

Sufficient reason for declining to enter into or make payment agreement

Heading: inserted, on 25 February 2016, by section 41 of the Child Support Amendment Act 2013 (2013 No 12).

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

(1) The Commissioner may decline to enter into a payment agreement with a liable person solely for the reason that the Commissioner is satisfied on the basis of information available to the Commissioner of both of the following matters:

(a) that the liable person has not complied with 1 or more earlier payment agreements; and

(b) that no reasonable cause existed for the liable person's non-compliance with all or any of those agreements.

(2) This section does not prevent the Commissioner from—

(a) declining to enter into the agreement for any other reason; or

(b) ceasing, because of further information available to the Commissioner, to be satisfied of either or both of those matters.

(3) For the purposes of section 96 (which identifies matters with respect to which Part 6 does not confer any right of objection), the Commissioner's decision whether to enter into or make a payment agreement is a matter left by this section to the discretion of the Commissioner.

Section 135AA: inserted, on 25 February 2016, by section 41 of the Child Support Amendment Act 2013 (2013 No 12).

Discretionary relief in respect of penalties and pre-2021 penalties

Heading: replaced, on 1 April 2021, by section 46 of the Child Support Amendment Act 2021 (2021 No 6).

135A Application of sections 135AB to 135G

(1) Sections 135AB to 135G apply in relation to a penalty or pre-2021 penalty that is payable by a liable person in relation to a financial support debt.

(2) The Commissioner may grant relief to a liable person on any of the grounds specified in sections 135AB to 135G by—

(a) writing off the whole or part of a penalty or pre-2021 penalty; or

(b) if a penalty or pre-2021 penalty has been paid, in whole or in part, refunding to the liable person the whole or any part of that penalty or pre-2021 penalty that has been paid, with or without the writing off of any part of that penalty or pre-2021 penalty that has not been paid.

Section 135A: replaced, on 1 April 2021, by section 46 of the Child Support Amendment Act 2021 (2021 No 6).

135AB Discretionary relief for pre-2021 penalties

The Commissioner may grant relief to a liable person from the payment of pre-2021 penalties in the manner prescribed by section 135A if the Commissioner is satisfied that it would be fair and reasonable to do so.

Section 135AB: inserted, on 1 April 2021, by section 47 of the Child Support Amendment Act 2021 (2021 No 6).

135B Discretionary relief if reasonable cause

(1) The Commissioner may grant relief to a liable person in the manner prescribed by section 135A if the Commissioner is satisfied that—

(a) there was a reasonable cause for the delay in payment of the debt to which a penalty relates; and

(b) the liable person remedied the default as soon as practicable.

(2) For the purposes of this section, **reasonable cause** means an event or circumstance in relation to a liable person that—

(a) is beyond the control of the liable person, including a serious illness, an accident, or a disaster; and

(b) caused, in the opinion of the Commissioner, a reasonable delay in the payment of a financial support debt by the liable person.

Section 135B: substituted, on 26 September 2006, by section 32(1) of the Child Support Amendment Act 2006 (2006 No 42).

135C Discretionary relief if failure of another person to make deduction

The Commissioner may grant relief to a liable person in the manner prescribed by section 135A if the Commissioner is satisfied that—

(a) the circumstances that contributed to the delay in the payment of the debt to which a penalty relates were due to, or caused directly or indirectly by, the failure of any person to make a deduction under Part 10; and

(b) the liable person has taken reasonable action to mitigate, or mitigate the effects of, those circumstances; and

(c) having regard to the nature of those circumstances, it would be fair and reasonable to grant relief.

Section 135C: inserted, on 26 September 2006, by section 32(1) of the Child Support Amendment Act 2006 (2006 No 42).

135D Discretionary relief if honest oversight by liable person with no history of default

The Commissioner may grant relief to a liable person in the manner prescribed by section 135A if the Commissioner is satisfied that—

(a) the delay in payment of the debt to which a penalty relates is due to an honest oversight by the liable person; and

(b) the liable person has no history of default in previous payments of financial support; and

(c) the liable person paid the debt as soon as he or she became aware of the oversight.

Section 135D: inserted, on 26 September 2006, by section 32(1) of the Child Support Amendment Act 2006 (2006 No 42).

135DA Discretionary relief if recovery is inefficient use of Commissioner's resources

(1) This section applies in relation to penalties that have been imposed in respect of any part of the benefit component of an amount of child support that has been written off by the Commissioner under section 180A(1)(b)(ii) on the ground that recovery would involve an inefficient use of the Commissioner's resources.

(2) The Commissioner may grant relief to a liable person in the manner prescribed by section 135A if the Commissioner is satisfied that recovery of the penalties would involve an inefficient use of the Commissioner's resources.

Section 135DA: inserted, on 1 April 2021, by section 48 of the Child Support Amendment Act 2021 (2021 No 6).

135E Discretionary relief if error made by Department

The Commissioner may grant relief to a liable person in the manner prescribed by section 135A if the Commissioner is satisfied that—

(a) the delay in payment of the debt to which a penalty relates was due to an error made by an officer of the Department; and

(b) the liable person has acted in good faith and has altered his or her position in reliance on the error; and

(c) having regard to the circumstances of the case, it would be fair and reasonable to grant relief.

Section 135E: inserted, on 26 September 2006, by section 32(1) of the Child Support Amendment Act 2006 (2006 No 42).

135F Discretionary relief if debt waived or uplifted

The Commissioner may grant relief to a liable person in the manner prescribed by section 135A if the Commissioner is satisfied that—

(a) the payee has—

(i) waived under section 179A the right to the payment to which the penalty relates; or

(ii) uplifted under section 180 the debt to which the penalty relates; and

(b) it would be fair and reasonable to grant relief.

Section 135F: inserted, on 26 September 2006, by section 32(1) of the Child Support Amendment Act 2006 (2006 No 42).

Section 135F heading: amended, on 1 April 2015, by section 27(1) of the Child Support Amendment Act 2013 (2013 No 12).

Section 135F(a): replaced, on 1 April 2015, by section 27(2) of the Child Support Amendment Act 2013 (2013 No 12).

135FA Discretionary relief from incremental penalties unpaid before agreement entered into on or after 1 April 2016

[Repealed]

Section 135FA: repealed, on 1 April 2021, by section 49 of the Child Support Amendment Act 2021 (2021 No 6).

135G Discretionary relief if serious hardship

(1) The Commissioner may grant relief to a liable person from the payment of penalties in the manner prescribed by section 135A if the Commissioner is satisfied that recovery of the penalties would place the liable person in serious hardship.

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

(3) In this section and section 180A(1)(b)(i),—

serious hardship, in relation to a liable person,—

(a) includes significant financial difficulties that arise because of—

(i) the liable person's inability to meet minimum living expenses according to normal community standards; or

(ii) the cost of medical treatment for an illness or injury of the liable person or the liable person's dependant; or

(iii) a serious illness suffered by the liable person or the liable person's dependant; or

(iv) the cost of education for the liable person's dependant:

(b) does not include significant financial difficulties that arise because—

(i) the liable person is obligated to pay tax or financial support; or

(ii) the liable person may become bankrupt; or

(iii) the liable person's, or the liable person's dependant's, social activities and entertainment may be limited; or

(iv) the liable person is unable to afford goods or services that are expensive or of a high quality or standard according to normal community standards.

Section 135G: inserted, on 26 September 2006, by section 32(1) of the Child Support Amendment Act 2006 (2006 No 42).

Section 135G heading: amended, on 1 April 2021, by section 50(1) of the Child Support Amendment Act 2021 (2021 No 6).

Section 135G(1): replaced, on 1 April 2021, by section 50(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 135G(2): amended, on 1 April 2021, by section 50(3) of the Child Support Amendment Act 2021 (2021 No 6).

Section 135G(2): amended, on 1 April 2016, by section 45(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 135G(3): amended, on 1 April 2021, by section 50(4) of the Child Support Amendment Act 2021 (2021 No 6).

Section 135G(3): amended, on 25 February 2016, by section 44(3) of the Child Support Amendment Act 2013 (2013 No 12).

135GA Discretionary relief for residual penalty-only debt

[Repealed]

Section 135GA: repealed, on 1 April 2021, by section 51 of the Child Support Amendment Act 2021 (2021 No 6).

Mandatory relief in respect of initial late payment penalty

[Repealed]

Heading: repealed, on 1 April 2021, by section 51 of the Child Support Amendment Act 2021 (2021 No 6).

135GB Relief from initial late payment penalty if full or substantial compliance with payment arrangement entered into or made on or after 1 April 2016 and within 3-month period

[Repealed]

Section 135GB: repealed, on 1 April 2021, by section 51 of the Child Support Amendment Act 2021 (2021 No 6).

135H Relief from initial late payment penalty if full compliance with payment arrangement entered into or made before 1 April 2016 and within 3-month period

[Repealed]

Section 135H: repealed, on 1 April 2021, by section 51 of the Child Support Amendment Act 2021 (2021 No 6).

135I Relief from initial late payment penalty if minimum amount

[Repealed]

Section 135I: repealed, on 1 April 2021, by section 51 of the Child Support Amendment Act 2021 (2021 No 6).

Mandatory relief in respect of incremental penalties

[Repealed]

Heading: repealed, on 1 April 2021, by section 51 of the Child Support Amendment Act 2021 (2021 No 6).

135J Relief from incremental penalties unpaid before agreement entered into on or after 26 September 2006

[Repealed]

Section 135J: repealed, on 1 April 2021, by section 51 of the Child Support Amendment Act 2021 (2021 No 6).

135JA Relief from incremental penalties unpaid before deduction plan made on or after 1 April 2016

[Repealed]

Section 135JA: repealed, on 1 April 2021, by section 51 of the Child Support Amendment Act 2021 (2021 No 6).

135K Relief from incremental penalties in relation to arrangements entered into or made before 26 September 2006

[Repealed]

Section 135K: repealed, on 1 April 2021, by section 51 of the Child Support Amendment Act 2021 (2021 No 6).

135L Writing-off of incremental penalties if non-compliance with arrangement

[Repealed]

Section 135L: repealed, on 1 April 2021, by section 51 of the Child Support Amendment Act 2021 (2021 No 6).

135M Relief from ongoing incremental penalties if payment agreement in force

[Repealed]

Section 135M: repealed, on 1 April 2021, by section 51 of the Child Support Amendment Act 2021 (2021 No 6).

135N Relief from ongoing incremental penalties if deduction notice in force

[Repealed]

Section 135N: repealed, on 1 April 2021, by section 51 of the Child Support Amendment Act 2021 (2021 No 6).

Miscellaneous

Heading: inserted, on 26 September 2006, by section 32(1) of the Child Support Amendment Act 2006 (2006 No 42).

135O Refunds paid out of Crown Bank Account without further appropriation

Any refund made under sections 135A to 135G must be paid out of a Crown Bank Account without further appropriation than this section.

Section 135O: inserted, on 26 September 2006, by section 32(1) of the Child Support Amendment Act 2006 (2006 No 42).

Section 135O: amended, on 1 April 2021, by section 52 of the Child Support Amendment Act 2021 (2021 No 6).

136 Amounts payable per month and per day

(1) Where child support or domestic maintenance is payable in relation to any month in a child support year, the monthly rate payable is calculated by dividing the annual rate by 12.

(2) The amount of child support or domestic maintenance payable in relation to each day in the child support year is the amount of the monthly rate divided by the number of days in that calendar month.

Section 136: substituted, on 24 July 1999, by section 26 of the Child Support Amendment Act 1999 (1999 No 81).

Section 136(1): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 136(1): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 136(2): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 136(2): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Application of payments collected

137 Order in which payments to be applied by Commissioner

Where, in any month, an amount is paid to, or to be credited by, the Commissioner, or an amount is paid to and an amount is to be credited by the Commissioner, in relation to any person on account of financial support payable under this Act, the Commissioner shall, despite any direction given by or on behalf of the person, apply the amount of the payment or credit, or the sum of the amounts of the payment and credit, in payment successively as follows:

(a) *[Repealed]*

(b) any money payable by the person by way of a lump sum in accordance with an order made under section 109:

(c) any child support payable by the person in respect of any days in that month in the order in which those days occurred:

(d) any child support debts for any days in any preceding months in the order in which those days occurred:

(e) any domestic maintenance payable by the person in respect of any days in that month in the order in which those days occurred:

(f) any domestic maintenance debts for any days in any preceding months in the order in which those days occurred:

(g) any penalty or interest imposed under this Act.

Section 137(a): repealed, on 1 April 2021, by section 53 of the Child Support Amendment Act 2021 (2021 No 6).

Section 137(e): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 137(f): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

138 Apportionment of payment between payees

(1) Subject to section 137, where at any time—

(a) 2 or more financial support debts are owing by a person; and

(b) the debts relate to liabilities to pay financial support in relation to 2 or more payees; and

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

(d) the total amount of the debts exceeds the amount paid or to be credited or the sum of the amounts paid and to be credited, as the case may be,—

the Commissioner shall, despite any direction given by or on behalf of the person, apportion the amount of the payment or credit, or the sum of the amounts of the payment and credit, between the liabilities in relation to each of the payees in proportion to the entitlements of each, and apply the amounts so apportioned in partial discharge of each of those debts.

(2) For the purposes of this section, a debt that is owing in relation to 2 or more payees is regarded as 2 or more separate debts.

Part 9
Payment of financial support

Establishment and operation of Child Support Trust Bank Account

139 Establishment of Child Support Trust Bank Account

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

(2) Section 66(4) of the Public Finance Act 1989 shall apply to that account.

(3) The Child Support Trust Bank Account is a trust bank account for the purposes of section 67 of the Public Finance Act 1989.

140 Payments into, and out of, Child Support Trust Bank Account

(1) All amounts received by the Commissioner pursuant to this Act shall be paid into a Crown Bank Account.

(2) There shall be paid into the Child Support Trust Bank Account out of a Crown Bank Account without further appropriation than this section such amount as is necessary to meet the payments required to be made under sections 141 to 145.

(3) The money standing to the credit of the Child Support Trust Bank Account shall be applied in making payments under sections 141 to 145.

Section 140: substituted, on 15 July 1994, by section 7 of the Child Support Amendment Act 1994 (1994 No 74).

Section 140(1): amended, on 25 January 2005, pursuant to section 65R(3) of the Public Finance Act 1989 (1989 No 44).

Section 140(2): amended, on 25 January 2005, pursuant to section 65R(3) of the Public Finance Act 1989 (1989 No 44).

Payments by Commissioner

141 Payment to receiving carers who are not UCB beneficiaries

(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.

Section 141: replaced, on 1 July 2023, by section 14 of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

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

(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

(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,—

(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

(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:

(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.

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.

Section 142: replaced, on 1 July 2023, by section 14 of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

143 Payment of voluntary agreement 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

(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

(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

(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.

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,—

(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

(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:

(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

(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)

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

Section 143: replaced, on 1 July 2023, by section 14 of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

144 Payment of lump sum and other child support

(1) All money received by the Commissioner—

(a) pursuant to an order of the court made under section 109; or

(b) pursuant to an order to which Part 4 applies that provides for payments towards the support of a child,—

shall be paid to the receiving carer in accordance with this Part.

(2) Any such money shall not be taken into account under section 142 or section 143.

Section 144(1): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

145 Payment to spouses or other partners

All money received by the Commissioner by way of domestic maintenance towards the support of any person shall be paid to that person in accordance with this Part.

Section 145 heading: amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 145: amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

146 Time at which payments are to be made

(1) Any money by way of financial support—

(a) that is received by the Commissioner on or before the 20th day of any month; and

(b) that is required to be paid out by the Commissioner under any provision of this Part—

shall, subject to this section, be paid out on or before the seventh day of the following month.

(2) Any money that is paid to the Commissioner in advance of the day on which it is due shall be treated for the purposes of subsection (1) as if it is received by the Commissioner on the day on which it is due.

(3) Where the amount that a payee is, but for this subsection, entitled to be paid under any provision of this Part is at any time less than $5, the Commissioner is not required to pay that amount at that time.

147 Unremitted deductions made by employers or PAYE intermediaries

Where—

(a) the Commissioner is satisfied that a deduction has been made in any month by any person from money payable to a liable person under any provision of Part 10; and

(b) the amount of the deduction is not paid to the Commissioner by the person on or before the 20th day of the following month,—

the amount of that deduction shall, for the purposes of this Part, be deemed to have been received by the Commissioner on or before the 20th day of the following month.

Section 147 heading: amended, on 26 March 2003, by section 4(1) of the Child Support Amendment Act 2003 (2003 No 8).

Section 147: amended, on 15 July 1994, by section 10 of the Child Support Amendment Act 1994 (1994 No 74).

148 Method by which payments to be made

Any payment to be made to a payee under this section by the Commissioner shall, unless the Commissioner is satisfied that payment cannot be made in this manner, be paid by direct credit to a bank account nominated by the payee.

Section 148 heading: amended, on 1 April 2016, by section 51 of the Child Support Amendment Act 2013 (2013 No 12).

Section 148: amended, on 24 July 1999, by section 27 of the Child Support Amendment Act 1999 (1999 No 81).

149 Unexplained remittances

(1) This section applies where—

(a) on or before the 20th day of any month, the Commissioner receives an amount (referred to in this section as the **received amount**) from a person in relation to the amounts deducted by the person under Part 10; and

(b) the person has contravened section 163(1)(b) in relation to those amounts deducted; and

(c) the Commissioner is unable to ascertain to the Commissioner's satisfaction, in sufficient time prior to the cut-off day for the making of payments on or before the seventh day of the following month, the portion of the received amount attributable to each of the liable persons from whom an amount was deducted by the person.

(2) The Commissioner may, for the purposes of this Part, hold the received amount until the amount attributable to each of the liable persons from whom an amount has been deducted by the person has been established to the satisfaction of the Commissioner.

Section 149(2): amended, on 15 July 1994, by section 11 of the Child Support Amendment Act 1994 (1994 No 74).

150 Time at which unexplained remittances deemed to be received

Any amount which is held by the Commissioner under section 149(2) shall be deemed, for the purposes of this Part, not to have been received by the Commissioner until the day on which the amount attributable to each of the liable persons from whom an amount has been deducted by the person has been established to the satisfaction of the Commissioner.

151 Overpayments to payees before 1 April 2016

(1) Where a payee is before 1 April 2016 paid an amount under any provision of this Part and—

(a) the payee was not entitled to be paid the amount; or

(b) the amount is, because of a subsequent variation in the liability of the liable person, repayable by the Commissioner to the liable person; or

(c) the amount is, because of a subsequent variation in the entitlement of the payee, in excess of the amount properly payable to the payee under this Act,—

the amount is repayable by the payee to the Commissioner and is a debt due by the payee to the Crown.

(2) The Commissioner shall, as soon as practicable, assess the amount that is so repayable, and the provisions of this Act shall apply to the amount assessed and to the payee as if that amount was financial support and the payee was a liable person.

(3) Where, in any case to which subsection (1) applies, the payee is entitled to receive further payments under any provision of this Part, the amount of the debt due to the Crown by the payee may be recovered by reducing such of those payments by such amount as is determined in writing by the Commissioner.

Section 151 heading: amended, on 1 April 2016, by section 52(1) of the Child Support Amendment Act 2013 (2013 No 12) (as amended by section 160(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section 151(1): amended, on 1 April 2016, by section 52(2) of the Child Support Amendment Act 2013 (2013 No 12) (as amended by section 160(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

151AA Overpayments to payees on or after 1 April 2016

(1) This subsection applies to an amount that on or after 1 April 2016 is paid to a payee under any provision of this Part if—

(a) the payee was not entitled to be paid the amount; or

(b) the amount is, because of a subsequent variation in the liability of the liable person, repayable by the Commissioner to the liable person; or

(c) the amount is, because of a subsequent variation in the entitlement of the payee, in excess of the amount properly payable to the payee under this Act.

(2) An amount to which subsection (1) applies is, if that amount is assessed by the Commissioner in the exercise of the Commissioner's discretion under subsection (3),—

(a) repayable by the payee to the Commissioner; and

(b) a debt due by the payee to the Crown.

(3) The Commissioner may assess an amount to which subsection (1) applies.

(4) The Commissioner must notify the payee in writing of the assessment under subsection (3).

(5) This Act (subject to subsection (6)) applies to the amount assessed, and to the payee, as if—

(a) that amount was financial support; and

(b) the payee was a liable person.

(6) Sections 134, 134A, and 135 to 135G (which relate to penalties and to relief from them) apply to an amount assessed under subsection (3) and to the payee unless the Commissioner, in the Commissioner's discretion under this subsection, determines that all of those sections do not apply to the amount assessed.

(7) The Commissioner must notify the payee in writing of a determination under subsection (6), and the determination may be combined with an assessment under subsection (3).

(8) If the payee is entitled to receive further payments under any provision of this Part, the amount of the debt due to the Crown by the payee may be recovered by reducing such of those payments by such amount as is determined in writing by the Commissioner.

Section 151AA: inserted, on 1 April 2016, by section 53 of the Child Support Amendment Act 2013 (2013 No 12) (as amended by section 161 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4)).

Section 151AA(6): amended, on 1 April 2021, by section 54 of the Child Support Amendment Act 2021 (2021 No 6).

151A Relief where child support overpaid before estimation

[Repealed]

Section 151A: repealed, on 1 April 2016, by section 54 of the Child Support Amendment Act 2013 (2013 No 12).

152 Relief in cases of serious hardship

In any case where—

(a) a person is required under section 151 or 151AA to repay any amount of financial support (including any penalty imposed thereon under this Act) to the Commissioner and the amount is unable to be recovered, either in whole or in part, in the manner prescribed in section 151(3) or 151AA(8); and

(b) it is shown to the satisfaction of the Commissioner—

(i) that the person has suffered such loss or is in such circumstances that the repayment of the amount or part thereof that is unable to be so recovered has entailed or would entail serious hardship; or

(ii) that, owing to the death of the person, the dependents of that person are in such circumstances that the repayment of the full amount has entailed or would entail serious hardship,—

the Commissioner may write off the debt, wholly or in part, and may make such alterations in the assessment as are necessary for that purpose; and may, if the amount unable to be recovered in the manner prescribed in section 151(3) or 151AA(8) or any part thereof has been already paid, refund any amount paid in excess of the amount of the assessment as so altered under this section.

Compare: 1976 No 65 s 414

Section 152(a): amended, on 1 April 2016, by section 55(1)(a) of the Child Support Amendment Act 2013 (2013 No 12).

Section 152(a): amended, on 1 April 2016, by section 55(1)(b) of the Child Support Amendment Act 2013 (2013 No 12).

Section 152(b): amended, on 1 April 2016, by section 55(2) of the Child Support Amendment Act 2013 (2013 No 12).

152A Relief in case of exemption granted to liable person

(1) The Commissioner must write off the whole of a debt, and may make alterations in the assessment that are necessary for that purpose, if the debt—

(a) is an amount that is repayable by the payee to the Commissioner under section 151 or 151AA; and

(b) arises solely as a result of the liable person being granted an exemption under subpart 2 or 4 of Part 5A.

(2) The Commissioner must, if the debt has been paid in whole or in part, refund to the payee the part of the debt that has been paid.

(3) Any refund made under this section must be paid out of a Crown Bank Account without further appropriation than this section.

Section 152A: inserted, on 26 September 2006, by section 35 of the Child Support Amendment Act 2006 (2006 No 42).

Section 152A(1)(a): amended, on 1 April 2016, by section 56 of the Child Support Amendment Act 2013 (2013 No 12).

Section 152A(1)(b): amended, on 27 June 2019, by section 112 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

152B Offsetting child support payments

(1) This section applies if 2 persons are each liable to pay in respect of the other an amount of child support under a formula assessment or a voluntary agreement (whether or not those amounts have become due and payable).

(1A) The Commissioner may at any time offset one amount against the other if the Commissioner is satisfied that it would be just and equitable to do so.

(2) However, the Commissioner cannot exercise this power in respect of any amount in respect of a period if during that period the other parent is expected to be a UCB beneficiary).

(3) Subsection (4) applies if—

(a) the power to offset should not have been exercised because of subsection (2); and

(b) the reversal of the offsetting results in a requirement to pay an additional amount of child support.

(4) The parent must pay the additional amount within 30 days after the date on which the notice of reversal is given to the parent.

Section 152B: inserted, on 1 April 2015, by section 28 of the Child Support Amendment Act 2013 (2013 No 12).

Section 152B(1): replaced, on 26 October 2021, by section 55(1) of the Child Support Amendment Act 2021 (2021 No 6).

Section 152B(1): amended (with effect on 26 October 2021), on 30 March 2022, by section 241 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section 152B(1A): inserted, on 26 October 2021, by section 55(1) of the Child Support Amendment Act 2021 (2021 No 6).

Section 152B(2): amended, on 1 July 2023, by section 15 of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

Section 152B(2): amended, on 26 October 2021, by section 55(2) of the Child Support Amendment Act 2021 (2021 No 6).

Section 152B(2): amended, on 25 February 2016, by section 49 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 152B(3): inserted, on 26 October 2021, by section 55(3) of the Child Support Amendment Act 2021 (2021 No 6).

Section 152B(4): inserted, on 26 October 2021, by section 55(3) of the Child Support Amendment Act 2021 (2021 No 6).

Part 10
Automatic deductions

153 Interpretation

In this Part, unless the context otherwise requires,—

deduction means a deduction made or required to be made under this Part and includes an extraction, and **deduct** has a corresponding meaning

deduction notice means a deduction notice given under section 154

money payable has the same meaning as in section 155

payer, in relation to any deduction required to be made by any person under section 159 in accordance with a deduction notice, means the person required to make that deduction.

Automatic deductions

154 Deduction notice

(1) The Commissioner may, for the purpose of collecting financial support by way of automatic deduction in accordance with any of sections 129 to 131, give a notice to any person—

(a) specifying the name of the liable person and other particulars of the liable person sufficient to enable the liable person to be identified by that person; and

(b) instructing that person to make, in accordance with section 159, as from a specified day, a single deduction or periodic deductions of a specified daily, weekly, fortnightly, or monthly amount from any money payable to the liable person by that person; and

(c) instructing that person to pay to the Commissioner, in accordance with section 163, amounts so deducted.

(2) Every notice under this section shall be given in writing or in any other form to which the person to whom it is directed agrees.

Section 154(1): amended, on 25 February 2016, by section 50 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

155 Money from which deductions to be made

(1) Money is payable by a person to a liable person for the purposes of this Part if—

(a) it is payable by the person (whether on the person's own account or as agent or as trustee or otherwise) to the liable person; and

(b) it is payable on any day in the period commencing on the day on which a deduction notice is given to the person under section 154 and ending with the day on which the notice is revoked under section 158(2).

(2) Without limiting subsection (1), where the person is a bank, that subsection applies to any money (including interest thereon) that, on any day in the period referred to in paragraph (b) of that subsection, is on deposit or is deposited with the person to the credit of the liable person, whether or not—

(a) the deposit or the depositing is on current account:

(b) the money is to be at interest for a fixed term or without limitation of time:

(c) the liable person has made any application to withdraw or uplift the money.

(3) For the purposes of this Act, money—

(a) that is held in a joint bank account in the name of a liable person and 1 or more other persons; and

(b) that can be withdrawn from the account by or on behalf of the liable person without a signature being required at the time of that withdrawal from, or on behalf of, the other person or persons,—

is deemed to be money that is on deposit or is deposited to the credit of the liable person.

(4) For the purposes of this Act, unless the context otherwise requires, **bank** means—

(a) any registered bank within the meaning of that term in section 2 of the Banking (Prudential Supervision) Act 1989:

(b) any trustee bank or trustee bank's successor company (within the meaning of those terms in section 4 of the Trustee Banks Restructuring Act Repeal Act 1999):

(c) any private savings bank carried on under the Private Savings Banks Act 1983:

(d) any building society registered under the Building Societies Act 1965, in respect of any deposits with the building society:

(e) any person (not being a person of any of the kinds referred to in paragraphs (a) to (d)) that is a person carrying on in New Zealand the business of banking.

Section 155(4)(a): amended, on 1 July 2022, by section 300(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section 155(4)(b): amended, on 21 May 1999, pursuant to section 5 of the Trustee Banks Restructuring Act Repeal Act 1999 (1999 No 53).

Section 155(4)(e): amended, on 30 June 1995, pursuant to section 2(2) of the Banking Act Repeal Act 1995 (1995 No 32).

156 Copy of deduction notice to be given to liable person

(1) Where the Commissioner gives a deduction notice under section 154, the Commissioner shall forthwith give a copy of the notice to the liable person.

(2) For the purposes of the Tax Administration Act 1994, every such copy shall be deemed to be a notice required by this Act to be given by the Commissioner to the liable person.

(3) Despite subsection (1), for a notice relating to an amount of wages or salary of the liable person, the Commissioner may dispense with the requirement to send a copy of the notice to the liable person if, after making reasonable inquiries, the Commissioner has, or can find, no valid address for the liable person.

Section 156 heading: amended, on 26 September 2006, by section 36(1) of the Child Support Amendment Act 2006 (2006 No 42).

Section 156(2): amended, on 26 September 2006, by section 36(2) of the Child Support Amendment Act 2006 (2006 No 42).

Section 156(2): amended, on 1 April 1995 (applying with respect to tax on income derived in 1995–96 and subsequent income years), by section YB 1 of the Income Tax Act 1994 (1994 No 164).

Section 156(3): inserted, on 2 June 2016, by section 222 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

157 Priority of deductions under this Act

The requirement that the person is to make periodic deductions from any money payable to the liable person by that person in compliance with a deduction notice, and to pay amounts so deducted to the Commissioner in accordance with section 163, shall—

(a) prevail over and have priority to—

(i) any assignment or charge created by the liable person before the giving of the deduction notice (other than an assignment or charge that is created as security for money that has already been loaned by the person at the time that the deduction notice is given); and

(ii) any assignment or charge created by the liable person after the giving of the deduction notice,—

and that requirement shall have the same effect as if no such assignment or charge had been made or created by the liable person; and

(b) prevail over and have priority to any charge created by any attachment order or deduction notice issued under any other Act; and

(c) apply notwithstanding anything in section 97 of the Shipping and Seamen Act 1952.

158 Life of deduction notices

(1) Every deduction notice shall remain in force until revoked.

(2) The Commissioner may revoke any deduction notice by giving to the person to whom the notice was given—

(a) a notice of revocation; or

(b) a new deduction notice in respect of the liable person.

(3) A person who has chosen under section 129 to pay financial support by way of automatic deduction under this Part may at any time choose, in a way acceptable to the Commissioner, to stop automatic deduction.

(4) In that case, the Commissioner must revoke any relevant deduction notice under subsection (2)(a) unless section 130 or 131 applies.

Section 158(3): inserted, on 25 February 2016, by section 51 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 158(4): inserted, on 25 February 2016, by section 51 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

159 Duty of payer to make deductions from money payable

(1) Where the Commissioner has issued a deduction notice to any person, the person shall deduct from any money payable to the liable person such sum as is equal to the lesser of—

(a) the amount that the deduction notice requires to be so deducted at that time; or

(b) the amount of the money payable at that time.

(2) Every such deduction shall be made in accordance with the deduction notice.

(3) This section is subject to section 165.

160 Periodic deductions from money other than source deduction payments

Where—

(a) a person is required by a deduction notice to make periodic deductions of a specified daily, weekly, fortnightly, or monthly deduction amount from any money payable; and

(b) that money payable is not a source deduction payment,—

the amount of the deduction shall be the amount of the specified daily, weekly, fortnightly, or monthly deduction amount.

161 No opting out

Where a person is required by a deduction notice to make periodic deductions from any money payable, any agreement with a person other than the Commissioner not to make the deduction in accordance with that notice shall be void.

162 Authority to make deductions

Any person making a deduction or payment pursuant to a deduction notice shall be deemed to have been acting under the authority of the liable person to whom the notice relates and of all other persons concerned and is hereby indemnified in respect of the deduction or payment.

163 Payment of deductions to Commissioner

(1) A payer who has made a deduction under this Part from money payable to a liable person must—

(a) pay to the Commissioner the sum deducted to the credit of the liable person by the date required by section RD 4 of the Income Tax Act 2007; and

(b) provide the Commissioner with the employment income information referred to in section RD 22 of that Act and sections 23E to 23H and 23J of the Tax Administration Act 1994 by the date set out in that section.

(2) The Commissioner may, by notice in writing to the payer, vary, in such instances and to such extent as the Commissioner thinks fit, the requirements of this section.

Section 163(1): replaced, on 1 April 2019, by section 406 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section 163(1)(b): amended, on 1 April 2019, by section 325 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

164 Discharge of liable person's liability to Commissioner and payer's liability to liable person

Where a payer deducts an amount under this Part from any money payable to a liable person,—

(a) the liable person is, to the extent of the amount deducted, discharged from the liable person's liability to make payments to the Commissioner under the liability; and

(b) the payer is discharged from liability to pay the amount to any person other than the Commissioner.

165 Protected net earnings rate

(1) Notwithstanding anything in this Part, the employer of a liable person, or a PAYE intermediary for the employer, shall not in making deductions under a deduction notice reduce the net earnings of the liable person in respect of any pay period (within the meaning of section YA 1 of the Income Tax Act 2007) to an amount that is less than 60% of the residue that remains after deducting from the source deduction payment the amount of any tax withheld or deducted under the PAYE rules of the Income Tax Act 2007.

(2) This section is subject to any instruction received by an employer or a PAYE intermediary under section 166.

(3) In this section, **PAYE intermediary** means a PAYE intermediary as defined in section YA 1 of the Income Tax Act 2007.

Compare: 1964 No 136 s 27ZB

Section 165(1): amended, on 1 April 2008 (effective for 2008–09 income year and later), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Section 165(1): amended, on 26 March 2003, by section 5(1) of the Child Support Amendment Act 2003 (2003 No 8).

Section 165(1): amended, on 24 July 1999, by section 29(a) of the Child Support Amendment Act 1999 (1999 No 81).

Section 165(2): added, on 24 July 1999, by section 29(b) of the Child Support Amendment Act 1999 (1999 No 81).

Section 165(2): amended, on 26 March 2003, by section 5(2) of the Child Support Amendment Act 2003 (2003 No 8).

Section 165(3): added, on 26 March 2003, by section 5(3) of the Child Support Amendment Act 2003 (2003 No 8).

Section 165(3): amended, on 1 April 2008 (effective for 2008–09 income year and later), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 35).

166 Position where liable person has 2 or more employers

(1) Where a liable person is in receipt of source deduction payments from 2 or more employers, the Commissioner may—

(a) treat any one of the employers as the only employer for the purposes of this Part; or

(b) apply this Part in relation to any 2 or more of the employers with such modifications as the Commissioner considers appropriate, being modifications made for the purpose of ensuring that the amounts collected under this Part in relation to the liability are, in the aggregate, the same as those that would be collected in relation to the liability if the liable person had only 1 employer.

(2) Without limiting the generality of subsection (1)(b), where a liable person has more than 1 employer, the Commissioner may, under that subsection and on the request of the liable person, disregard, and instruct an employer of the liable person, or a PAYE intermediary for the employer, to disregard, the provisions of section 165(1) provided that the total deductions made under deduction notices by all employers of the liable person and all PAYE intermediaries must not reduce the person's total net earnings in respect of a pay period to an amount that is less than 60% of the residue that remains after deducting from the source deduction payments the amount of any tax withheld under the PAYE rules of the Income Tax Act 2007.

(3) In this section, **PAYE intermediary** has the same meaning as in section YA 1 of the Income Tax Act 2007.

Section 166(2): added, on 24 July 1999, by section 30 of the Child Support Amendment Act 1999 (1999 No 81).

Section 166(2): amended, on 1 April 2008 (effective for 2008–09 income year and later), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Section 166(2): amended, on 26 March 2003, by section 6(1)(a) of the Child Support Amendment Act 2003 (2003 No 8).

Section 166(2): amended, on 26 March 2003, by section 6(1)(b) of the Child Support Amendment Act 2003 (2003 No 8).

Section 166(3): added, on 26 March 2003, by section 6(2) of the Child Support Amendment Act 2003 (2003 No 8).

Section 166(3): amended, on 1 April 2008 (effective for 2008–09 income year and later), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

167 Deductions to be held on trust

(1) For the purposes of this section, **financial support deduction** means a periodic deduction made by a payer in terms of section 159; but does not include any penalty imposed under this Act.

(2) The amount of every financial support deduction made by any payer under this Part shall be held in trust for the Crown, and any amount so held in trust shall not be property of the payer liable to execution.

168 Payer failing to make financial support deductions

(1) Where a payer fails to make a deduction in accordance with the payer's obligations under this Part, the amount in respect of which default has been made shall constitute a debt payable by the payer to the Commissioner, and shall be deemed to have become due and payable to the Commissioner on the 20th day

of the month following the month in which that deduction was required to be made in accordance with those obligations.

(2) Nothing in this section shall apply to a failure by a bank to make a deduction from a bank account.

(3) The right of the Commissioner to recover from the payer the amount in respect of which default has been made shall be in addition to any right of the Commissioner to recover that amount from the liable person under this Act; and nothing in this Part shall be construed as preventing the Commissioner from taking such steps as the Commissioner thinks fit to recover that amount from the payer and from the liable person concurrently, or from recovering that amount wholly from the payer or wholly from the liable person or partly from the payer and partly from the liable person.

(4) Where any amount required to be deducted in accordance with this Part from any money payable to a liable person is instead paid to the Commissioner by the payer of the amount payable, the amount so paid to the Commissioner may be recovered by the payer from the liable person.

Compare: 1976 No 65 s 366

169 Unpaid financial support to constitute charge on payer's property

(1) Where a payer fails wholly or in part to make any deduction in accordance with that payer's obligations under this Part, or is liable to pay any sum to the Commissioner under this Part or the Tax Administration Act 1994, an amount equal to the total for the time being unpaid to the Commissioner in respect of that deduction or that sum (including any interest or penalty), and in respect of any judgment obtained therefor (including any costs, fees, or expenses included in the judgment or otherwise payable by the payer to the Commissioner in respect thereof) shall be a charge on all the real and personal property of the payer.

(2) Nothing in this section shall apply to a failure by a bank to make a deduction from a bank account.

(3) Every charge created by this section shall be subject to any mortgage, charge, or encumbrance that exists at the time of the creation of the charge and that either—

(a) has been registered under any registration Act to which the property is subject; or

(b) that is valid and effectual under the Personal Property Securities Act 1999 without registration thereof,—

but, subject to this section, shall have priority over all other mortgages, charges, or encumbrances. Notwithstanding anything in any other Act, if any property subject to the charge created by this section is also subject to a charge created by that other Act, the charges shall rank equally with each other unless

by virtue of that Act the charge created thereby would be deferred to the charge created by this section.

(4) Despite section 23(b) of the Personal Property Securities Act 1999, if a charge affects property against which charges may be registered under a registration Act, the Commissioner may register the charge under the registration Act.

(4B) The Commissioner is not required to pay a fee for the registration of a charge under a registration Act in reliance on this section.

(5) For the purpose of this section, **registration Act**, in relation to any property, includes—

(a) subpart 5 of Part 3 of the Land Transfer Act 2017 in every case where the property is land or an interest in land (including a mortgage):

(b) the Personal Property Securities Act 1999.

(6) Particulars recorded under subsection (4) are to operate and take priority according to the provisions of the applicable registration Act.

(6B) If the registration under this section of a charge over property occurs after the registration of a mortgage over the same property and before an advance of money secured by the mortgage, the charge has priority over the mortgage in respect of that money.

(7) On the satisfaction of a charge that is registered under a registration Act in reliance on this section, the Commissioner must release the charge in the manner required by the registration Act, with such modifications as may be necessary.

(7B) The Commissioner is not required to pay a fee for the release of a charge that is registered under a registration Act in reliance on this section.

(8) Any charge created by this section which is registered against any property shall operate to secure any amount secured by any prior unregistered charge and unpaid at the time of registration of the charge, and also to secure any amount secured by any charge coming into existence after the registration of the charge, so that the registered charge shall operate to secure the total of all amounts for the time being owing by the payer under all charges created by this section.

(9) If any amount constitutes by virtue of this section a charge on any property, the Family Court or the District Court may make such order as it thinks fit, either for the sale of that property or of any part thereof, or for the appointment of a receiver of the rents, profits, or income thereof, and for the payment of the amount of the charge and the costs of the Commissioner out of the proceeds of the sale or out of the rents, profits, or income.

(10) Where any property has been sold under any such order, the Family Court or, as the case may be, the District Court may, on the application of the purchaser or the Commissioner, make an order vesting the property in the purchaser.

(11) Every such vesting order shall have the same effect as if all persons entitled to the property had been free from all disability and had duly executed all proper conveyances, transfers, and assignments of the property for such estate or interest as is specified in the order; and in the case of land which is subject to the Land Transfer Act 2017 the purchaser's title thereto shall be registered accordingly.

(12) This section shall apply subject to section 167.

Compare: 1976 No 65 s 367

Section 169(1): amended, on 26 July 1996, by section 3(a) of the Child Support Amendment Act 1996 (1996 No 65).

Section 169(1): amended, on 26 July 1996, by section 3(b) of the Child Support Amendment Act 1996 (1996 No 65).

Section 169(3)(b): amended, on 1 May 2002, by section 191(1) of the Personal Property Securities Act 1999 (1999 No 126).

Section 169(4): substituted, on 25 November 2003, by section 3 of the Child Support Amendment Act (No 2) 2003 (2003 No 125).

Section 169(4B): inserted, on 25 November 2003, by section 3 of the Child Support Amendment Act (No 2) 2003 (2003 No 125).

Section 169(5): substituted, on 25 November 2003, by section 3 of the Child Support Amendment Act (No 2) 2003 (2003 No 125).

Section 169(5)(a): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 169(6): substituted, on 25 November 2003, by section 3 of the Child Support Amendment Act (No 2) 2003 (2003 No 125).

Section 169(6B): inserted, on 25 November 2003, by section 3 of the Child Support Amendment Act (No 2) 2003 (2003 No 125).

Section 169(7): substituted, on 25 November 2003, by section 3 of the Child Support Amendment Act (No 2) 2003 (2003 No 125).

Section 169(7B): inserted, on 25 November 2003, by section 3 of the Child Support Amendment Act (No 2) 2003 (2003 No 125).

Section 169(9): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 169(11): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 169(11): amended, on 20 May 1999, by section 7 of the Stamp Duty Abolition Act 1999 (1999 No 61).

170 Payers not to disclose information

Any person who is, or has been,—

(a) a payer; or

(b) a person employed by, or performing services for, a payer,—

shall not, except for the purposes of this Part or otherwise in connection with the performance of the payer's duties under this Part or in connection with carrying on the payer's affairs, directly or indirectly divulge or communicate to a second person any information in relation to the affairs of a third person,

being information disclosed or obtained under or for the purposes of this Part and acquired by the person because of, or in the course of, the performance of the payer's duties under this Part.

Offences and penalties

171 Offence to prejudice employees because of financial support liability

(1) Any employer commits an offence against this Act who—

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

(b) dismisses, or threatens to dismiss, another person from his or her employment; or

(c) terminates, or threatens to terminate, the payment of salary or wages to another person; or

(d) prejudices, or threatens to prejudice, another person in his or her employment or otherwise in the receipt of salary or wages; or

(e) intimidates or coerces, imposes any pecuniary or other penalty on, or takes any other disciplinary action in relation to, another person,—

because the other person—

(f) is a liable person; or

(g) is an employee in relation to whom a deduction notice has been given to the employer.

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

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

(a) order the payment of compensation to the person for loss or damage suffered as a result of the act; and

(b) order the taking of action to remedy or reduce the loss or damage suffered by the person as a result of the act.

172 Other offences in relation to this Part

Without limiting the application of section 208, it is hereby declared that every person commits an offence against this Act who discloses information to any other person where, by reason of the provisions of section 170, the person is not permitted to disclose that information to that other person.

Section 172: substituted, on 26 July 1996, by section 4 of the Child Support Amendment Act 1996 (1996 No 65).

173 Penalty for late deductions

[Repealed]

Section 173: repealed, on 26 July 1996, by section 5 of the Child Support Amendment Act 1996 (1996 No 65).

174 Write-off of late deduction penalty

[Repealed]

Section 174: repealed, on 26 July 1996, by section 6 of the Child Support Amendment Act 1996 (1996 No 65).

Miscellaneous provisions

175 Application of other provisions to amounts payable under this Part

Subject to this Part, the provisions of this Act and the Tax Administration Act 1994 shall apply with respect to every amount that any person is liable to account for or pay to the Commissioner under this Part as if the amount were financial support payable by that person under this Act.

Compare: 1976 No 65 s 373

Section 175: amended, on 26 July 1996, by section 7 of the Child Support Amendment Act 1996 (1996 No 65).

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

Where—

(a) 2 or more debts are due to the Commissioner by a payer under this Part; and

(b) an amount is paid to the Commissioner in relation to all or any of the debts; and

(c) the total amount of the debts exceeds the amount so paid or, as the case may be, the sum of the amounts so paid,—

the Commissioner may, despite any direction given by or on behalf of the payer,—

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

(e) recover the amount by which the total amount of the debts exceeds the amount so paid or the sum of the amounts paid,—

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

177 Records to be kept by payer

(1) A payer shall—

(a) keep records that record and explain—

(i) all amounts deducted, or required to be deducted, from any money payable to a liable person under section 159; and

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

(b) retain those records for a period of not less than 7 years.

(2) The records shall be kept—

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

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

(3) Nothing in this section shall require a person to retain records where the Commissioner has notified the person that retention of the records is not required.

Part 11
Enforcement provisions

178 Mode of recovery of unpaid financial support

All unpaid financial support and any unpaid penalty or other charge imposed thereon under this Act shall be recoverable by the Commissioner on behalf of the Crown by suit in the Commissioner's official name and that money may, without prejudice to any mode of recovery, then be enforceable in the same manner as a judgment given by the District Court in civil proceedings.

Compare: 1980 No 94 s 101

179 Payee has no right to take action to recover financial support payments

Subject to section 180, no legal action may be taken by a payee in relation to any amount of financial support due and payable by a liable person to the Commissioner.

179A Waiver of right to payment

(1) A payee who is a non-parent receiving carer of a qualifying child (other than a payee who is in receipt of an unsupported child's benefit for that child) may, by notice to the Commissioner, waive their right to receive the child support payments yet to be paid by a liable parent.

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

(3) On and from the date on which a waiver takes effect, no unpaid child support payments constitute a debt payable by the liable parent to the Crown, whether

the payments were due before, on, or after the date on which the waiver takes effect.

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

(a) the date specified in the notice:

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

(5) A waiver under this section is deemed to be revoked if, and on the date that, the payee begins to receive an unsupported child's benefit for the child to whom the waiver relates.

(6) If a waiver is revoked, the liable parent must pay the child support due in relation to the child from the date the revocation takes effect, and must pay it within 30 days after the date on which the notice of revocation is given to the liable parent.

Section 179A: inserted, on 1 April 2015, by section 29 of the Child Support Amendment Act 2013 (2013 No 12).

Section 179A(1): amended, on 1 July 2023, by section 16(1) of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

Section 179A(1): amended, on 1 April 2015, by section 215(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section 179A(5): amended, on 1 July 2023, by section 16(2) of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

Section 179A(5): amended, on 1 April 2015, by section 215(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

180 Payee may uplift financial support debt

(1) A person who is the payee in respect of an amount of child support or domestic maintenance may elect, by notice to the Commissioner, that—

(a) the Commissioner cease to pursue payment of the whole or any part of an amount payable by the liable person that is unpaid and in arrear; or

(b) the Commissioner not pursue payment of an amount that is to become payable in the future by a liable person.

(2) This section does not entitle an election to be made in relation to an amount of child support payable to a payee, other than pursuant to a lump sum order made under section 109,—

(a) under subsection (1)(a), if the amount of child support was payable in respect of a period during which the payee was a UCB beneficiary; or

(b) under subsection (1)(b), if the payee is a UCB beneficiary at the time of the making of the election; or

(c) under subsection (1)(b), if the payee is not a UCB beneficiary at the time of the making of the election, unless, at that time,—

(i) the Commissioner has accepted an election under section 27 that covers the liability of the liable parent to pay child support; or

(ii) the payee elects that the liability of the liable parent to pay child support is to end under section 64 or 70.

(3) Where the Commissioner receives an election that complies with the requirements of this section, the amount of money that is or becomes unpaid and in arrear, to the extent that the payee has elected that the Commissioner not pursue payment,—

(a) ceases to be a debt payable by the liable person to the Crown under this Act; and

(b) becomes a debt payable by the liable person to the payee; and

(c) without prejudice to any mode of recovery and despite section 179, may be recovered by the payee in the District Court.

(4) An election made under this section is irrevocable from the time that the amount of child support or domestic maintenance is unpaid and in arrear.

(5) A notice of election under subsection (1) must be given using an approved form or in another way approved by the Commissioner.

Section 180: substituted, on 24 July 1999, by section 31 of the Child Support Amendment Act 1999 (1999 No 81).

Section 180(1): amended, on 31 March 2026, by section 236(2) of the Taxation (Annual Rates for 2025–26, Compliance Simplification, and Remedial Measures) Act 2026 (2026 No 8).

Section 180(1): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 180(2): replaced, on 1 April 2016, by section 59 of the Child Support Amendment Act 2013 (2013 No 12) (as amended by section 65 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1)).

Section 180(2)(a): amended, on 31 March 2026, by section 236(3) of the Taxation (Annual Rates for 2025–26, Compliance Simplification, and Remedial Measures) Act 2026 (2026 No 8).

Section 180(2)(a): amended, on 1 July 2023, by section 17(1) of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

Section 180(2)(b): amended, on 1 July 2023, by section 17(2) of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

Section 180(2)(c): amended, on 1 July 2023, by section 17(2) of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

Section 180(3): amended, on 31 March 2026, by section 236(4) of the Taxation (Annual Rates for 2025–26, Compliance Simplification, and Remedial Measures) Act 2026 (2026 No 8).

Section 180(3)(c): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 180(4): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 180(5): inserted, on 31 March 2026, by section 236(5) of the Taxation (Annual Rates for 2025–26, Compliance Simplification, and Remedial Measures) Act 2026 (2026 No 8).

180A Commissioner may write off benefit component of child support debt if receiving carer was UCB beneficiary and recovery would cause serious hardship or be inefficient use of Commissioner's resources

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

(a) the amount of child support was payable in respect of a period during which the receiving carer was a UCB beneficiary); and

(b) the Commissioner is satisfied that recovery of that part or, as the case requires, all, of the benefit component of the amount of child support would do either or both of the following:

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

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

(2) The **benefit component** of an amount of child support, in subsection (1), means the proportion of that amount that is deductible under section 142 or 143 in respect of unsupported child's benefit (or any lesser amount that would be deductible in lieu of that proportion under those sections).

Section 180A: inserted, on 1 April 2016, by section 60 of the Child Support Amendment Act 2013 (2013 No 12) (as amended by section 66(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1)).

Section 180A heading: amended, on 1 July 2023, by section 18(1) of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

Section 180A(1)(a): amended, on 1 July 2023, by section 18(2) of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

Section 180A(2): amended, on 1 July 2023, by section 18(3) of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

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

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

(a) the liable person has died; and

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

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

Section 180B: inserted, on 1 April 2016, by section 60 of the Child Support Amendment Act 2013 (2013 No 12).

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

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

(a) the receiving carer has died; and

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

Section 180C: inserted, on 1 April 2016, by section 60 of the Child Support Amendment Act 2013 (2013 No 12).

180D Sections 180B and 180C to cover child support penalties

In sections 180B and 180C, **child support debt** includes the following:

(a) *[Repealed]*

(b) *[Repealed]*

(ba) a penalty (as defined in section 135) imposed in relation to child support:

(bb) a pre-2021 penalty (as defined in section 135) imposed in relation to child support:

(c) a penalty imposed under section 45 as in force before 1 April 2015 (including as applied on and after that date by clauses 1A and 2A of Schedule 1).

Section 180D: inserted, on 1 April 2016, by section 60 of the Child Support Amendment Act 2013 (2013 No 12) (as amended by section 66(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1)).

Section 180D(a): repealed (with effect on 1 April 2021), on 30 March 2022, by section 242(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section 180D(b): repealed (with effect on 1 April 2021), on 30 March 2022, by section 242(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section 180D(ba): inserted (with effect on 1 April 2021), on 30 March 2022, by section 242(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section 180D(bb): inserted (with effect on 1 April 2021), on 30 March 2022, by section 242(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

181 Application of tax overpayments

Where—

(a) the Commissioner finds in any case that an amount is owing to any person by the Crown under any of the Inland Revenue Acts (other than this Act) within the meaning of the Tax Administration Act 1994; and

(b) a debt is due by the person under this Act,—

the Commissioner—

(c) shall first apply that amount owing to the person against any debt or debts owing by that person under any of those Acts; and

(d) may secondly apply any excess against the amount of the debt that is due by the person under this Act.

Section 181(a): amended, on 1 April 1995 (applying with respect to tax on income derived in 1995–96 and subsequent income years), by section YB 1 of the Income Tax Act 1994 (1994 No 164).

182 Bankruptcy

(1) Where a liable person who is required to make any payment under this Act is adjudicated a bankrupt, all money due and unpaid at the date of the adjudication shall constitute a debt provable in the bankruptcy.

(2) No such bankruptcy and no discharge from the bankruptcy shall—

(a) release the bankrupt from any personal liability under this Act, or from any proceedings for the enforcement of any liability under this Act, or for the punishment of any breach of any provision of this Act, whether in respect of money due at the time of the adjudication or of the filing of the petition or accruing due thereafter; or

(b) affect any security for the payment of any liability under this Act, or the liability of any property to be made available in satisfaction of any liability under this Act, other than property that is or becomes assets in the bankruptcy.

Compare: 1980 No 94 s 102

183 Warrant to seize property

(1) Where any financial support that is payable by any person under this Act (and any penalty or interest imposed thereon under this Act) is in arrear and unpaid for not less than 14 days, a District Court Judge may issue a warrant to seize property against that person for the amount unpaid, or for so much of that amount as for the time being remains unpaid.

(2) Every such warrant to seize property shall be in the prescribed form, with any necessary modifications.

(3) Except to the extent that they are modified or varied by this section or by any rules of procedure made under this Act, the provisions of the District Court Act 2016 that apply to warrants to seize property shall apply, with any necessary modifications, in respect of a warrant to seize property issued under this section.

(4) For the purpose of executing any warrant to seize property, the bailiff executing it may at any time enter on any premises, by force if necessary, if the bailiff has reasonable cause to believe that the property in respect of which it is issued is on those premises:

provided that if any person in actual occupation of the premises requires the bailiff to produce evidence of his or her authority, the bailiff executing the warrant shall produce the warrant before entering on the premises.

(5) Where a person against whom a warrant to seize property is issued pays or tenders to the bailiff executing the warrant the sum or sums therein mentioned together with the expenses of the seizure of property up to the time of the payment or tender, the warrant shall be deemed to be satisfied.

(6) Where goods have been seized under a warrant to seize property and some third person claims to be entitled to the goods either as owner under a hire purchase agreement or under a bill of sale or otherwise by way of security for a debt, a court presided over by a Family Court Judge or District Court Judge may order a sale of the whole or part of the goods upon such terms as to payment of the whole or part of the secured debt or otherwise as the court thinks fit, and may direct the application of the proceeds of the sale in such manner and upon such terms as it deems just.

(7) The surplus of the sale, if any, shall be handed by the bailiff to the Registrar, who shall pay the amount to the person against whom the warrant to seize property is issued.

(8) *[Repealed]*

(9) No seizure of property made under the authority of this Act shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, by reason of any defect or want of form in the warrant to seize property, nor shall any such person be deemed a trespasser from the beginning by reason of any irregularity afterwards committed by that person; but all persons aggrieved by any such defect or irregularity may recover satisfaction for the special damage by action at law.

(10) Section 175 of the District Court Act 2016 does not apply in relation to a warrant to seize property issued under this section.

Compare: 1980 No 94 s 103

Section 183 heading: replaced, on 14 April 2014, by section 43 of the District Courts Amendment Act 2011 (2011 No 30).

Section 183(1): amended, on 14 April 2014, by section 43 of the District Courts Amendment Act 2011 (2011 No 30).

Section 183(2): amended, on 14 April 2014, by section 43 of the District Courts Amendment Act 2011 (2011 No 30).

Section 183(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 183(3): amended, on 14 April 2014, by section 43 of the District Courts Amendment Act 2011 (2011 No 30).

Section 183(4): amended, on 14 April 2014, by section 43 of the District Courts Amendment Act 2011 (2011 No 30).

Section 183(5): amended, on 14 April 2014, by section 43 of the District Courts Amendment Act 2011 (2011 No 30).

Section 183(6): amended, on 14 April 2014, by section 43 of the District Courts Amendment Act 2011 (2011 No 30).

Section 183(7): amended, on 14 April 2014, by section 43 of the District Courts Amendment Act 2011 (2011 No 30).

Section 183(8): repealed, on 14 April 2014, by section 43 of the District Courts Amendment Act 2011 (2011 No 30).

Section 183(9): amended, on 14 April 2014, by section 43 of the District Courts Amendment Act 2011 (2011 No 30).

Section 183(10): replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Charging orders

184 Charging orders

(1) Where a person has a liability to pay financial support under this Act, a Family Court Judge, Family Court Associate, or District Court Judge may, in any case, at any time after the commencement of that liability, order that the financial support payable or to become payable under this Act shall be a charge on any property to which the person is entitled.

(2) Subject in the case of any real property to registration under subsection (6), the property shall become subject to a charge accordingly in favour of the person to whom for the time being and from time to time the money is or becomes payable.

(3) A charging order shall specify, in such a manner as to identify it, the property on which the charge is imposed.

(4) A charging order may at any time be varied or discharged by a Family Court Judge, Family Court Associate, or District Court Judge.

(5) Nothing in section 131 of the Workers' Compensation Act 1956 or in section 89 of the Accident Compensation Act 1982 shall apply to any charge constituted under this section.

(6) Where a charging order is made in respect of the registered estate or interest of the respondent in any land, a duplicate or copy of the order under the seal of the court may be delivered for registration to the Registrar-General of Land if the title to the land is under the Land Transfer Act 2017, or to the appropriate Registrar of Deeds if the title to the land is not under that Act, or, in the case of a mining privilege within the meaning of the Mining Act 1971, may be delivered for recording to the Registrar-General of Land.

(7) The Registrar to whom the duplicate or copy is delivered shall, without fee, record it in the register against the appropriate folium of the register book and against any relevant instrument or title, or record it and note its particulars on the filed copy of the mining privilege to which it relates, as the case may require.

(8) An order discharging or varying a charging order may be registered or recorded in the same manner as the charging order.

Compare: 1980 No 94 s 118

Section 184(1): amended, on 6 October 2023, by section 43(1) of the Family Court (Family Court Associates) Legislation Act 2023 (2023 No 25).

Section 184(4): amended, on 6 October 2023, by section 43(2) of the Family Court (Family Court Associates) Legislation Act 2023 (2023 No 25).

Section 184(6): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

185 Charging orders on life insurance policies

The authority conferred by section 184 to make a charging order shall apply with respect to policies of life insurance.

Compare: 1980 No 94 s 119

Section 185: amended, on 6 October 2023, by section 44 of the Family Court (Family Court Associates) Legislation Act 2023 (2023 No 25).

186 Extent to which charging orders bind the Crown

(1) For the purposes of this section, the term **employing department** means—

(a) a department of State in which a person is employed; and

(b) in relation to a person to whom any retiring allowance or pension or other payment of a similar nature is payable—

(i) out of the Government Superannuation Fund, the Government Superannuation Fund Authority:

(ii) out of the National Provident Fund, the Board of Trustees of the National Provident Fund.

(2) Section 184 shall bind the Crown subject to subsections (3) to (6).

(3) A charging order may be made under section 184 upon any money payable to the liable person by the Crown within New Zealand, including money payable by way of refund of contributions out of the Government Superannuation Fund or the National Provident Fund.

(4) A charging order shall, in specifying the property on which the charge is imposed, specify the amount or the approximate amount (if known) of the sum so payable by the Crown, the circumstances giving rise to the liability of the Crown to make the payment, and the officer of the Crown (described by the name of the office, the name of the department, and the place where the officer is stationed) by whom in the ordinary course of Crown business payment of that sum would be made to the liable person.

(5) Service of a charging order shall—

(a) be made on the chief executive of the department affected and also on any officer of the Crown (described by the name of the office, the name of the department, and the place where the officer is stationed) specified in the order; and

(b) be served on the chief executive to whom it relates, either personally or by leaving it at the employer's place of business, or by sending it by

registered letter addressed to the employer at the chief executive's place of business; and

(c) where service of a charging order is effected by registered letter, then in the absence of proof to the contrary, the order shall be deemed to have been served when it would have been delivered in the ordinary course of post, and in proving service it shall be sufficient to prove that the letter was properly addressed and posted.

(6) Unless in any particular case the Crown agrees to the contrary, this section shall not apply—

(a) to any payment of money that in the ordinary course of Crown business is or would be effected otherwise than through some person in the service of the Crown who is employed in a department of State within New Zealand; or

(b) to any money in the payment of which the Crown acts only in the capacity of an agent.

Compare: 1980 No 94 s 120

Section 186(1)(b): substituted, on 1 October 1995, by section 31 of the Government Superannuation Fund Amendment Act 1995 (1995 No 28).

Section 186(1)(b)(i): amended, on 2 October 2001, by section 40 of the Government Superannuation Fund Amendment Act 2001 (2001 No 47).

Receiving orders

187 Receiving orders

(1) If any amount constitutes, by virtue of section 184, a charge on any property, the Family Court or the District Court may make such order as it thinks fit, either for the sale of that property or of any part thereof, or for the appointment of Public Trust or any other person to be the receiver of the whole or any part of that property, or of the rents, profits, or income of the property, or of any part of that property:

provided that neither Public Trust nor any other person shall, unless that person consents, be appointed under this section as a receiver.

(2) Where any property has been sold under any such order, the High Court may, on the application of the purchaser or the Commissioner, make an order vesting the property in the purchaser.

(3) Every such vesting order shall have the same effect as if all persons entitled to the property had been free from all disability and had duly executed all proper conveyances, transfers, and assignments of the property for such estate or interest as is specified in the order; and in the case of land which is subject to the Land Transfer Act 2017 the purchaser's title thereto shall be registered accordingly.

(4) The court may, at any time after making a receiving order, vary or discharge the order.

(5) A receiving order shall expire on the payment by the liable person of all arrears due under this Act, together with the payment by the liable person in advance of all money to become payable under this Act during the period of 6 months from the date of the cancellation of the receiving order.

Compare: 1980 No 94 s 121

Section 187(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 187(1): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 187(3): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 187(3): amended, on 20 May 1999, by section 7 of the Stamp Duty Abolition Act 1999 (1999 No 61).

188 Powers and duties of receiver

(1) A receiver appointed under section 187 may take and recover, by action or otherwise, the possession and receipt of the property in respect of which the receiver has been appointed, and of the rents, profits, and income from the property, so long as the receiving order remains in force.

(2) The receiver may also, in the receiver's own name, grant leases of any land in respect of which the receiver has been appointed on such conditions as the receiver thinks fit, and for any term not exceeding 3 years or from year to year, or for a weekly, monthly, or other similar tenancy.

(3) A lease granted pursuant to subsection (2) shall remain valid notwithstanding any subsequent discharge of the charge or of the receiving order.

(4) Subject to any directions that may be given by the Family Court or the District Court, the receiver may also pay in respect of any such land all rates, taxes, interest, insurance premiums, and other outgoings (including all instalments of principal and interest under any table mortgage secured over the land) that are due at the time of the receiver's appointment or may fall due while the receiving order continues in force, and the cost of repairing and keeping in good repair and condition all buildings and other improvements on any such land; but the receiver shall not be bound to make any such payment or to repair or keep in good repair and condition any such buildings and improvements.

(5) Notwithstanding subsection (4), the receiver shall not expend in any one year (being a year commencing from the date of the receiver's appointment or any subsequent year), in repairing and keeping in good repair and condition all buildings and other improvements on the land, a sum exceeding $2,000, unless the expenditure is first authorised by the court.

(6) The receiver shall make all payments pursuant to subsection (4) from the rents, profits, and income of the land received or to be received by the receiver, except in so far as any such payments are made pursuant to subsection (7).

(7) The court may, on application by the receiver, authorise the receiver—

(a) to make the whole or any part of any such payments pursuant to subsection (4) from any capital money that may be held by the receiver pursuant to the receiving order; or

(b) to borrow money, in the name and on behalf of the liable person, on the security of any such land, to enable the whole or any part of any such payments to be made.

(8) The receiver may grant a mortgage or charge over the land as security for the repayment of any money borrowed under subsection (7) and interest on that money, being a mortgage or charge with or without a power of sale, and subject to such covenants, provisions, and agreements as may be agreed upon between the receiver and the lender.

(9) The mortgage or charge shall have the same operation and effect in all respects as if it were executed or given by the liable person personally, and shall remain valid and effectual notwithstanding any subsequent discharge of the charge or of the receiving order.

(10) Where the receiver is Public Trust and the receiver is authorised pursuant to subsection (7) to borrow money, the receiver may instead advance money in accordance with section 56 of the Public Trust Act 2001 as if the land were property to the credit of an estate under that section, and all the provisions of that section, as far as they are applicable and with any necessary modifications, shall apply to any such advance.

(11) Subject to the foregoing provisions of this section, the receiver shall hold in trust all money received by the receiver in the exercise of his or her powers, after payment out of the money of all expenses incurred by the receiver, and of any remuneration allowed by the court for the services of the receiver in that behalf,—

(a) to pay and satisfy all money from time to time accruing due under this Act; and

(b) to hold the residue of the money so received until the charge or the receiving order is discharged, or the court sooner directs, and then to pay it to the person who would be entitled to the money if no such charge or receiving order was in force.

(12) Despite subsection (11), if the receiver is Public Trust, the remuneration of the receiver is to be determined in accordance with Public Trust's scale of charges.

(13) Subject to this Act, the appointment of a receiver by the Family Court or the District Court under this Part shall have the same effect, and the receiver shall have the same powers, duties, and liabilities, as if the receiver had been appointed by the High Court in the exercise of its jurisdiction in that behalf, and the Family Court or the District Court may give to the receiver any directions and confer upon the receiver any powers that the High Court may give to or confer upon any receiver so appointed by it.

Compare: 1980 No 94 s 122

Section 188(4): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 188(10): amended, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 188(12): substituted, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 188(13): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Provisions as to enforcement of financial support liability

189 Order for enforcement of arrears

An order made under this Part for the purpose of enforcing payment of any money payable under this Act may be made in respect of arrears due under this Act up to the date of the order.

Compare: 1980 No 94 s 123

190 Power to issue summons to appear in court

(1) Where a person who is liable to pay financial support under this Act refuses or fails to make payment of any financial support so payable, the Registrar of the District Court or Family Court at the office of the court nearest to the place where the person resides or carries on business, on the application of the Commissioner, supported by sufficient evidence of default, may, unless the Registrar knows that the person is undergoing a custodial sentence, as defined in section 4 of the Criminal Records (Clean Slate) Act 2004, issue a summons in the prescribed form to that person.

(2) A summons issued under subsection (1) shall require the person, unless the amount of arrears of financial support (including any penalty or other charge imposed thereon under this Act) due under this Act is sooner paid, to appear at the time and place appointed in the summons to be examined orally by the District Court or Family Court as to the person's means and the reason for the alleged default.

(3) The liable person shall produce at the examination all books, papers, and the documents relating to the person's debts and to the person's default under this Act.

(4) If a summons issued under this section cannot be served or if a person on whom such a summons has been served fails to appear before the District Court or Family Court at the time and place specified in the summons, or at any subsequent time and place to which the examination is adjourned, a District Court or Family Court Judge may issue a warrant to arrest the person and bring the person before the court as soon as possible.

Compare: 1980 No 94 s 124

Section 190(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 190(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

191 Evidence of default

For the purpose of sections 190, 194, and 196, a certificate of arrears signed by the Commissioner specifying the amount of any money in arrear and unpaid under this Act shall until the contrary is proved be sufficient evidence of the amount so in arrear and unpaid as at the date specified in the certificate.

Compare: 1980 No 94 s 125

192 Power to summons witnesses

(1) Where the Registrar believes in relation to any examination to be held under section 190 that any person (other than the liable person)—

(a) has possession of any book, paper, or document relating to the affairs or property of the liable person; or

(b) is capable of giving information concerning the liable person's income from any sources or concerning the person's expenditure,—

the Registrar may issue a summons in the prescribed form requiring that person to appear before the District Court or Family Court as a witness at the time and place appointed in the summons.

(2) Any person so summoned may be required to produce any book, paper, or document relating to the affairs, finances, or property of the liable person.

(3) No person who is required by a summons issued under subsection (1) to travel more than 20 kilometres to attend the examination shall be bound to attend unless expenses in accordance with the scale prescribed by regulations made under the Criminal Procedure Act 2011 are tendered to that person.

(4) On the failure of any person to appear before the court in answer to a summons under subsection (1), a District Court or Family Court Judge may issue a warrant to arrest that person and bring that person before the court as soon as possible.

Compare: 1980 No 94 s 126

Section 192(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

193 Execution of warrants

(1) A person to whom a warrant under section 190(4) or section 192(4) is issued may execute it forthwith but shall not be obliged to do so if that person believes that the person to be arrested cannot be brought before the District Court or Family Court within 72 hours after his or her arrest.

(2) A warrant under section 190(4) or section 192(4) shall cease to have effect if the amount of the arrears due under this Act is paid.

(3) Every person apprehended under a warrant under section 190(4) or section 192(4) shall be bailable as of right.

Compare: 1980 No 94 s 127

194 Conduct of examination

(1) An examination under section 190 shall be made orally on oath before the District Court or Family Court.

(2) Every liable person who is summoned or brought before a court under section 190 shall appear personally, and may be represented by a barrister or solicitor who may examine the person and be heard on the matter of the person's liability and means.

(3) The liable person may be cross-examined by the Commissioner or the Commissioner's barrister or solicitor.

(4) Any witness may be cross-examined by—

(a) the liable person or the liable person's barrister or solicitor:

(b) the Commissioner or the Commissioner's barrister or solicitor.

(5) Any examination under section 190 may from time to time be adjourned by the court to a time and place to be appointed.

(6) On any examination under section 190 of this Act, sections 168 and 206 of the Criminal Procedure Act 2011 apply, so far as they are applicable and with the necessary modifications, as if the examination were the hearing of a charge.

Compare: 1980 No 94 s 128

Section 194(6): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

195 Orders by court

Upon completion of an examination under section 190, the District Court or Family Court may, after giving the liable person and the Commissioner an opportunity to be heard, do any 1 or more of the following things:

(a) make any order under Part 7 that it thinks appropriate; or

(b) make an order writing off or suspending in whole or in part any arrears under this Act; or

(c) make any order or issue any warrant under this Act relating to the enforcement of any liability under this Act as it thinks fit.

Compare: 1980 No 94 s 129

196 Contempt procedures

(1) Where, upon completion of an examination under section 190, the District Court or Family Court is satisfied beyond reasonable doubt that the liable person has or has had sufficient means to pay any money payable under this Act but has refused or failed to do so and that other methods of enforcing

payment under this Part have been considered or tried and it appears to the court that they are inappropriate or have been unsuccessful, the court may order the liable person to do community work for a number of hours, not exceeding 400 hours, as the court thinks fit.

(2) Where the Commissioner is satisfied that a liable person who is liable to pay financial support under this Act has refused or failed to do so, the Commissioner may apply to the District Court or Family Court, with sufficient supporting evidence of default, to have the liable person dealt with pursuant to subsection (1).

(3) Where, upon an application made to it under subsection (2), the District Court or Family Court is satisfied that the liable person has, within 12 months immediately preceding the application, been examined or received a summons to attend an examination under section 190, the court may proceed in all respects as if subsection (1) applied.

(4) A copy of the application and evidence referred to in subsection (2) shall be served on the liable person.

(5) If a copy of the application and evidence referred to in subsection (2) cannot be served on the liable person or if the liable person fails to appear at the hearing of the application, the District Court or Family Court may issue a warrant to arrest the person and bring the person before the court as soon as possible.

(6) A person to whom a warrant under subsection (5) is issued may execute it forthwith but shall not be obliged to do so if that person believes that the liable person to be arrested cannot be brought before the District Court or Family Court within 72 hours after his or her arrest.

(7) A warrant under subsection (5) shall cease to have effect if the amount due under this Act is paid.

(8) An order made under subsection (1) shall have effect as if the liable person, following conviction, had been sentenced to community work.

(9) Where the District Court or Family Court, acting under this section, orders a liable person to do community work, the person shall have the same right of appeal to the High Court against the order as the person would have had if the person had been convicted and sentenced by the District Court.

(10) Doing community work under this section shall not operate to extinguish or affect the liability of the respondent under this Act.

(11) Section 30 of the Sentencing Act 2002 applies in relation to this section as if the District Court were imposing a sentence of imprisonment.

Compare: 1980 No 94 s 130

Section 196(1): amended, on 30 June 2002, by section 186 of the Sentencing Act 2002 (2002 No 9).

Section 196(8): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 196(8): amended, on 30 June 2002, by section 186 of the Sentencing Act 2002 (2002 No 9).

Section 196(9): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 196(9): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 196(9): amended, on 30 June 2002, by section 186 of the Sentencing Act 2002 (2002 No 9).

Section 196(10): amended, on 30 June 2002, by section 186 of the Sentencing Act 2002 (2002 No 9).

Section 196(11): substituted, on 30 June 2002, by section 186 of the Sentencing Act 2002 (2002 No 9).

197 Application of Legal Services Act 2000

Every liable person who is summoned or brought before the District Court or Family Court under section 190 or section 196 of this Act may apply for the grant of legal aid under the Legal Services Act 2000 as if the person had been charged with an offence, and that Act, with the necessary modifications, shall apply accordingly.

Compare: 1980 No 94 s 131

Section 197 heading: amended, on 1 February 2001, pursuant to section 126(1) of the Legal Services Act 2000 (2000 No 42).

Section 197: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 197: amended, on 1 February 2001, pursuant to section 126(1) of the Legal Services Act 2000 (2000 No 42).

198 Liable person doing community work to be discharged on payment

(1) If a liable person is doing community work under an order made under section 196(1), the person may pay, or cause to be paid, the amount due under this Act.

(2) If the liable person pays, or causes to be paid, the amount due, a probation officer, on being notified by the Commissioner of the payment of that sum, must notify the person that he or she is no longer required to report to a community work centre, unless there is some other reason for the person being required to report.

Section 198: substituted, on 30 June 2002, by section 186 of the Sentencing Act 2002 (2002 No 9).

199 Arrest of liable person

(1) Where a District Court Judge or, if a District Court Judge is not available and the case appears to be one of urgency, any Registrar (not being a constable), is satisfied on application in writing made by the Commissioner that there is reasonable cause to believe that any liable person is about to leave New Zealand with intent to avoid payment of any liability under this Act, the District Court Judge or Registrar may issue a warrant for the arrest of the person.

(2) The liable person shall thereupon be brought as soon as possible before the District Court which, if it is satisfied that the liable person is likely to leave New Zealand with intent to avoid payment of any liability under this Act, may make any 1 or more of the following orders:

(a) an order that the liable person give such security (including the provision of sureties) for the payment of that liability as the court specifies:

(b) an order that the liable person do not leave New Zealand without the written permission of the court:

(c) an order that the liable person surrender to the court for such period as the court specifies any tickets or travel documents in the person's possession.

(3) On making an order under subsection (2)(b) or (c), the court may direct the Registrar to give notice of the order to such departments of State, offices, or persons as the court or the Registrar thinks proper.

(4) Every person commits an offence and is liable on conviction to imprisonment for a term not exceeding 3 months, or to a fine not exceeding $2,000 who, being a person against whom an order under subsection (2)(b) is in force, leaves New Zealand, or attempts or does any act with intent to leave New Zealand.

(5) A person against whom an order under subsection (2) is in force may apply to the court for the discharge of the order, and the court may discharge the order accordingly.

Compare: 1980 No 94 s 134

Section 199(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 199(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Miscellaneous provisions

200 Dispositions may be restrained

(1) Where it appears to a court that a disposition of any property is about to be made, whether for value or not, by or on behalf of or by direction of or in the interests of a liable person or any other party to proceedings under this Act in order to defeat the claim or rights of the Commissioner or any other person under this Act or in respect of costs, the court may, on the application of the Commissioner and on such notice being given as the court may direct, by order restrain the making of the disposition or may order any proceeds of the disposition to be paid into court to be dealt with as the court directs.

(2) A disposition made after an order of the court under subsection (1) restraining the making of the disposition has been served on or come to the notice of the person disposing of the property, or any auctioneer, agent, or solicitor acting in connection with the disposition, shall be void; and the court may consider any claim of any person interested and may make such order as it thinks just.

Compare: 1980 No 94 s 183

201 Dispositions may be set aside

(1) Where any court is satisfied that any disposition of any property has been made, whether for value or not, by or on behalf of or by direction of or in the interests of a liable person or any other party to proceedings under this Act in order to defeat the claim or rights of the Commissioner or any other person under this Act or in respect of costs, the court may, on the application of the Commissioner, make an order under subsection (2).

(2) In any case to which subsection (1) applies, the court may, subject to the provisions of subsection (4),—

(a) order that any person to whom the disposition was made and who received the property otherwise than in good faith and for valuable consideration, or that person's personal representative, shall transfer the property or any part thereof to such person as the court directs; or

(b) order that any person to whom the disposition was made and who received the property otherwise than in good faith and for adequate consideration, or that person's personal representative, shall pay into court, or to the Commissioner, or to such other person as the court directs, a sum not exceeding the difference between the value of the consideration (if any) and the value of the property; or

(c) order that any person who has, otherwise than in good faith and for valuable consideration, received any interest in the property from the person to whom the disposition was so made, or that person's personal representative, or any person who received that interest from any such person otherwise than in good faith and for valuable consideration, shall transfer that interest to such person as the court directs, or shall pay into court, or to the Commissioner, or to such other person as the court directs, a sum not exceeding the value of the interest.

(3) For the purposes of giving effect to any order under subsection (2), the court may make such further order as it thinks fit.

(4) Relief (whether under this section, or in equity, or otherwise) in any case to which subsection (1) applies shall be denied wholly or in part, if the person from whom relief is sought received the property or interest in good faith, and has so altered his or her position in reliance on having an indefeasible interest in the property or interest that in the opinion of the court, having regard to all possible implications in respect of other persons, it is inequitable to grant relief, or to grant relief in full, as the case may be.

(5) The court may, on any application under this section, make such order as to costs as it thinks fit.

Compare: 1980 No 94 s 184

202 Procedure in High Court where defendant absent from New Zealand

In any action in the High Court for the recovery of financial support from a defendant absent from New Zealand, the High Court may grant leave to serve the writ out of New Zealand, or to proceed without service in the same manner as may be provided in other cases by the Rules of the High Court for the time being in force, save that no security shall be required from the Commissioner.

Compare: 1976 No 65 s 402

203 No limitation of action to recover financial support

No relief in respect of a claim for recovery of financial support is barred or otherwise affected by the following:

(a) the Limitation Act 2010:

(b) any other enactment that prescribes a limitation period or other limitation defence.

Compare: 1976 No 65 s 406

Section 203: substituted, on 1 January 2011, by section 58 of the Limitation Act 2010 (2010 No 110).

204 Crown Proceedings Act 1950 not affected

Nothing in this Act shall be so construed as to limit or affect the operation of the Crown Proceedings Act 1950, and all rights and remedies conferred upon the Crown by that Act and by this Act shall co-exist, and may be exercised independently of one another, and financial support may be recovered accordingly.

Compare: 1976 No 65 s 407

205 Recovery of financial support paid by one person on behalf of another

Every person who in pursuance of this Act pays any financial support for or on behalf of any liable person shall be entitled to recover the amount so paid from the liable person as a debt, and to retain or deduct that amount out of or from any money which is or becomes payable by the person to the liable person; and if the person has paid the financial support as mortgagee, then, until repaid, it shall be deemed to form part of the money secured by the mortgage, and shall bear interest at the same rate accordingly.

Compare: 1976 No 65 s 408

206 Direct payment to payee

Where a payee has received, from a person who in relation to that payee is a liable person, an amount intended by both the liable person and the payee to be paid in complete or partial satisfaction of a liability of the liable person to pay financial support under this Act, the Commissioner shall disregard that payment for the purposes of this Act and the amount so paid shall not be credited by the Commissioner against the liability of the liable person to pay financial support under this Act.

207 Amounts paid where no liability to pay exists, etc

(1) Where—

(a) an amount of financial support is paid by a person to the Commissioner; and

(b) the person is not liable, or subsequently becomes not liable, to pay the amount to the Commissioner; and

(c) the Commissioner has paid the amount to a payee,—

the amount may be recovered from the payee by the person in the District Court.

(2) In a proceeding in a court under this section, the court may make such orders as it considers just and equitable for the purpose of adjusting or giving effect to the rights of the parties and, where appropriate, the child concerned.

(3) This section is subject to section 89J.

Section 207(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 207(3): added, on 26 September 2006, by section 37 of the Child Support Amendment Act 2006 (2006 No 42).

Part 12
Offences and penalties

208 Offences

Every person commits an offence against this Act who—

(a) fails to notify the Commissioner, as required by section 89ZC, of the matters referred to in that section; or

(b) fails to notify the Commissioner, as required by section 82, of changes in living circumstances; or

(c) makes a deduction that contravenes section 165; or

(d) *[Repealed]*

(e) fails to notify the Commissioner, as required by section 239(1), of any change to that person's address; or

(f) fails to comply with any requirement of the Commissioner pursuant to section 239(2); or

(g) provides any false document or any false statement or any false declaration or gives any false information, knowing it to be false, or being reckless as to whether it was false, or intentionally misleads or attempts to mislead the Commissioner or any other officer of the Inland Revenue Department in relation to any matter under this Act; or

(h) knowingly falsifies any records required to be kept under this Act; or

(i) obstructs any officer of the Inland Revenue Department acting in the discharge of that officer's duties or in the exercise of that officer's powers under this Act; or

(j) aids, abets, incites, or conspires with any person to commit any offence against this Act or against any regulation made under this Act.

Compare: 1976 No 65 s 416

Section 208(a): substituted, on 26 September 2006, by section 38 of the Child Support Amendment Act 2006 (2006 No 42).

Section 208(d): repealed, on 26 July 1996, by section 8 of the Child Support Amendment Act 1996 (1996 No 65).

208A Offences by payers

(1) No person being a payer within the meaning of section 153, or an officer or employee of such a person, may be convicted of an offence under section 208.

(2) Notwithstanding subsection (1), a person specified in that subsection, and an officer or employee of such a person, may be convicted of an offence under section 208(c).

Section 208A: inserted, on 26 July 1996, by section 9 of the Child Support Amendment Act 1996 (1996 No 65).

209 Officers and employees of corporate bodies

[Repealed]

Section 209: repealed, on 26 July 1996, by section 10 of the Child Support Amendment Act 1996 (1996 No 65).

210 Penalties for offences

(1) *[Repealed]*

(2) Every person who commits an offence against section 172 shall,—

(a) on the first occasion on which the person is convicted of any such offence or more than 1 such offence, be liable, in respect of that offence or, as the case may be, each of those offences, to a fine not exceeding $15,000:

(b) on every occasion, other than the occasion referred to in paragraph (a), on which the person is convicted of any such offence or more than 1 such offence, be liable, in respect of that offence or, as the case may be, each of those offences, to a fine not exceeding $25,000.

(3) Every person who commits an offence against section 208 (other than against section 208(j)) shall,—

(a) on the first occasion on which the person is convicted of any such offence or more than 1 such offence, be liable, in respect of that offence or, as the case may be, each of those offences, to a fine not exceeding $2,000:

(b) on the second occasion on which the person is convicted of any such offence or more than 1 such offence, be liable, in respect of that offence or, as the case may be, each of those offences, to a fine not exceeding $4,000:

(c) on every occasion, other than the occasions referred to in paragraphs (a) and (b), on which the person is convicted of any such offence or more than 1 such offence, be liable, in respect of that offence or, as the case may be, each of those offences, to a fine not exceeding $6,000.

(4) Every person who commits an offence against section 208(j) shall be liable on conviction to a fine not exceeding the maximum fine applicable to the offence committed by the person aided, abetted, incited, or conspired with.

Compare: 1976 No 65 s 416B; 1986 No 3 s 42(1)

Section 210(1): repealed, on 26 July 1996, by section 11(a) of the Child Support Amendment Act 1996 (1996 No 65).

Section 210(2): amended, on 26 July 1996, by section 11(b) of the Child Support Amendment Act 1996 (1996 No 65).

Section 210(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

211 Proceedings must be commenced by Commissioner

All proceedings for offences against this Act must be commenced by filing a charging document in the name of the Commissioner.

Section 211: replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

212 Charging document may charge several offences

(1) Any charging document may charge the defendant with any number of offences against this Act if those offences are founded on the same set of facts or form or are part of a series of offences of the same or similar character.

(2) Where a charging document charges more than 1 such offence, particulars of each offence charged shall be set out separately in the charging document.

(3) All such charges shall be heard together, unless the court, either before or at any time during the hearing, considers it just that any charge should be heard separately and makes an order to that effect.

Section 212: replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

213 Charging document may be filed within 10 years

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011 or in any other Act, the limitation period in respect of an offence against this Act or any regulations made under it ends on the date that is 10 years after the end of the child support year in which the offence was committed.

Section 213: replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Part 13
Reciprocal agreements

214 Interpretation

For the purposes of this Part, unless the context otherwise requires,—

agreement means a convention or agreement made between the government of a country or territory outside New Zealand and the Government of New Zealand, with a view to—

(a) providing for New Zealand child support or domestic maintenance payable by a resident of that country or territory to be collected by the government of that country or territory:

(b) providing for foreign child support or domestic maintenance payable under the laws of that country or territory by a resident of New Zealand to be collected by the Government of New Zealand:

(c) providing for reciprocity in respect of other matters relating to child support or domestic maintenance:

(d) exchanging information in respect of any matter relating to child support or domestic maintenance

foreign child support or domestic maintenance, in relation to a country or territory outside New Zealand, means a payment required under the laws of the country or territory that is of the same nature as child support or domestic maintenance and is the subject of an agreement

New Zealand child support or domestic maintenance means child support or domestic maintenance.

Section 214 **agreement** paragraph (a): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 214 **agreement** paragraph (b): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 214 **agreement** paragraph (c): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 214 **agreement** paragraph (d): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 214 **foreign child support or domestic maintenance**: inserted, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 214 **foreign child support or spousal maintenance**: repealed, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 214 **New Zealand child support or domestic maintenance**: inserted, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 214 **New Zealand child support or spousal maintenance**: repealed, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

215 Adoption of reciprocal agreement with other countries

(1) For the purpose of giving effect to arrangements specified in any agreement with the government of any country or territory outside New Zealand for reciprocity in respect of matters relating to child support or domestic maintenance, or to any alteration to any such agreement, the Governor-General may from time to time, by Order in Council,—

(a) declare that the provisions contained in the agreement or alteration set out in a schedule to the Order in Council shall, notwithstanding anything in this Act, have force and effect so far as they relate to New Zealand:

(b) declare that the provisions of this Act and of the regulations and orders in force under this Act shall have effect subject to such modifications as may be required for the purpose of giving effect to the agreement or alteration:

(c) amend or revoke any previous Order in Council which applied in respect of any such agreement which is no longer in force or which is intended to be no longer in force on the commencement of the Order in Council.

(2) The Governor-General may, by the same or a subsequent Order in Council, specify the date on which any Order in Council made under subsection (1) is to come into force or cease to be in force, which in either case may be a date before or on or after the date on which the Order in Council is so made.

(3) Where any agreement has effect under this section, the obligation as to secrecy imposed by any enactment, and in particular by section 18(1) of the Tax Administration Act 1994, shall not prevent the Commissioner or any authorised officer of the Inland Revenue Department from disclosing to any authorised officer of the government with which the agreement is made such information as is required to be disclosed under the agreement.

(4) An order under this section—

(a) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); but

(b) commences in accordance with subsection (2), even if it is not yet published.

Compare: 1976 No 65 s 294

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 215(1): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 215(1)(a): amended, on 26 September 2006, by section 39(1) of the Child Support Amendment Act 2006 (2006 No 42).

Section 215(3): amended, on 18 March 2019, by section 326 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section 215(3): amended, on 1 April 1995 (applying with respect to tax on income derived in 1995–96 and subsequent income years), by section YB 1 of the Income Tax Act 1994 (1994 No 164).

Section 215(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Part 14
General provisions

Refunds of financial support

216 Refund of excess financial support

(1) In this section, **excess financial support** means any amount paid by a person to the Commissioner in excess of the amount of financial support properly payable, together with any penalties imposed under this Act.

(2) The person may request a refund of the excess financial support from the Commissioner.

(3) On receiving a request from the person, the Commissioner must refund—

(a) all of the excess financial support if the person neither has, nor is known to have at some future time, liability to make further payments of financial support under this Act; or

(b) in any other case, so much of the excess financial support as has not been paid to the payee.

(4) The Commissioner may refund so much of the excess financial support as has not been paid to the payee without receiving a request from the person if the person neither has, nor is known to have at some future time, any liability to make further payments of financial support under this Act.

(5) If the person is entitled to a refund not exceeding $5 but does not request it within 12 months of first becoming entitled to it, the Commissioner must transfer the refund to the person's tax credit account for the purposes of the Income Tax Act 2007.

(6) This section and sections 216A to 216D are subject to section 89J.

Section 216: substituted, on 24 July 1999, by section 33 of the Child Support Amendment Act 1999 (1999 No 81).

Section 216(5): amended, on 1 April 2008 (effective for 2008–09 income year and later), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Section 216(6): added, on 26 September 2006, by section 40 of the Child Support Amendment Act 2006 (2006 No 42).

216A Method of application for refund of excess financial support paid

(1) An application under section 216 must be made in the manner required by section 184A of the Tax Administration Act 1994.

(2) Subsection (1) does not apply if all of the refund referred to in section 216(3) is to be transferred under sections 216B to 216D.

Section 216A: inserted, on 7 October 1998, by section 5(1) of the Child Support Amendment Act 1998 (1998 No 103).

Section 216A(2): added, on 26 September 2006, by section 41 of the Child Support Amendment Act 2006 (2006 No 42).

216B Transfer of refund

(1) A person may request that the Commissioner transfer all or part of the refund that is payable to the person under section 216(3) towards the satisfaction of—

(a) a tax liability or other amount due of the person for the purposes of the Tax Administration Act 1994; or

(b) a tax liability or other amount due of another person for the purposes of the Tax Administration Act 1994; or

(c) another person's financial support liability.

(2) The person may choose the date on which all or part of the refund is transferred, being a date that occurs on or after the date of the request.

(3) A request cannot be withdrawn or amended after the transfer has been made.

Section 216B: inserted, on 26 September 2006, by section 42(1) of the Child Support Amendment Act 2006 (2006 No 42).

216C Form of request for transfer of refund

A request made under section 216B must—

(a) be in writing; and

(b) specify—

(i) the amount of the refund that is to be transferred; and

(ii) the tax type or financial support in relation to which the refund is to be transferred; and

(iii) the name of the person who is to be credited with the amount (if that person is not the person who is making the request); and

(iv) any other information that the Commissioner may require.

Section 216C: inserted, on 26 September 2006, by section 42(1) of the Child Support Amendment Act 2006 (2006 No 42).

216D Commissioner must transfer refund

(1) On receiving a request under section 216B, the Commissioner must transfer—

(a) all of the amount of the refund in accordance with the request if the person neither has, nor is known to have at some future time, liability to make further payments of financial support under this Act; or

(b) in any other case, so much of the amount of the refund in accordance with the request as has not been paid to the payee.

(2) For the purposes of the Inland Revenue Acts (as defined in section 3(1) of the Tax Administration Act 1994),—

(a) a refund transferred on the request of a person is treated as a refund made to the person on the date of transfer; and

(b) a refund transferred to the account of a person is treated,—

(i) in the case of a transfer under section 216B(1)(a) or (b), as tax paid by the person on the date of transfer, except for the purpose of imposing a shortfall penalty under Part 9 of the Tax Administration Act 1994; and

(ii) in the case of a transfer under section 216B(1)(c), as the payment of financial support by the person on the date of transfer.

Section 216D: inserted, on 26 September 2006, by section 42(1) of the Child Support Amendment Act 2006 (2006 No 42).

217 Appropriation of refunds

Any refund of financial support under this Act may be made without further appropriation than this section.

Compare: 1976 No 65 s 415

Miscellaneous provisions

218 Meaning of ordinarily resident in New Zealand

(1) Notwithstanding any other provision of this section, a person is **ordinarily resident in New Zealand** within the meaning of this Act if that person has a permanent place of abode in New Zealand, whether or not that person also has a permanent place of abode outside New Zealand.

(2) Where a person is personally present in New Zealand for a period or periods exceeding in the aggregate 183 days in any period of 12 months, that person shall be deemed to be ordinarily resident in New Zealand from the first day within that period of 12 months on which that person was personally present in New Zealand.

(3) Where a person is resident in New Zealand and is personally absent from New Zealand for a period or periods exceeding in the aggregate 325 days in any period of 12 months, that person shall be deemed not to be ordinarily resident in New Zealand from the first day within that period of 12 months on which that person was personally absent from New Zealand and, subject to this section, thereafter.

(4) For the purposes of this section, where a person is personally present in New Zealand for part of a day, that person shall be deemed to be personally present in New Zealand for the whole of that day and not to be personally absent from New Zealand for any part of that day.

(5) Notwithstanding any other provision of this section, a person who is personally absent from New Zealand in the service in any capacity of the Government of New Zealand shall be deemed to be ordinarily resident in New Zealand during that absence.

(6) The Commissioner may treat a child as ordinarily resident in New Zealand if the Commissioner is satisfied that the child is personally present in New Zealand and is likely to be ordinarily resident in New Zealand within the meaning of this section.

(7) The Commissioner may treat a child as not ordinarily resident in New Zealand if the Commissioner is satisfied that the child is not personally present in New Zealand and is not likely to be ordinarily resident in New Zealand within the meaning of this section.

(8) The Commissioner may treat a person other than a child as ordinarily resident in New Zealand if the Commissioner is satisfied that the person is personally present in New Zealand and intends to be ordinarily resident in New Zealand within the meaning of this section.

(9) The Commissioner may treat a person other than a child as not ordinarily resident in New Zealand if the Commissioner is satisfied that the person is not personally present in New Zealand and does not intend to be ordinarily resident in New Zealand within the meaning of this section.

(10) Subsections (6) to (9) apply despite subsections (2) to (4).

Compare: 1976 No 65 s 241; 1988 No 225 s 23(1)

Section 218(6): inserted, on 1 April 2021, by section 56 of the Child Support Amendment Act 2021 (2021 No 6).

Section 218(7): inserted, on 1 April 2021, by section 56 of the Child Support Amendment Act 2021 (2021 No 6).

Section 218(8): inserted, on 1 April 2021, by section 56 of the Child Support Amendment Act 2021 (2021 No 6).

Section 218(9): inserted, on 1 April 2021, by section 56 of the Child Support Amendment Act 2021 (2021 No 6).

Section 218(10): inserted, on 1 April 2021, by section 56 of the Child Support Amendment Act 2021 (2021 No 6).

219 Power of Commissioner in respect of small amounts

Notwithstanding anything in this Act, the Commissioner may, in the Commissioner's discretion, refrain from collecting or refunding financial support in any case where, as the case may be,—

(a) the balance of any financial support payable does not exceed $1; or

(b) the financial support paid or deducted exceeds the amount of the financial support for which the person is liable in relation to any month by an amount not exceeding $1.

Compare: 1976 No 65 s 411

219A Power of Commissioner where small debit results from exchange rate fluctuations

Despite anything else in this Act, where the balance of any financial support payable at the end of a child support year does not exceed $20, the Commissioner may, in the Commissioner's discretion, refrain from collecting the financial support if—

(a) the financial support is payable by a liable person who, during the child support year, resided in a country outside New Zealand; and

(b) financial support was paid by the liable person during the child support year in a foreign currency; and

(c) the balance payable is due to fluctuations in the exchange rate.

Section 219A: inserted, on 24 July 1999, by section 34 of the Child Support Amendment Act 1999 (1999 No 81).

220 Evidentiary certificates by Commissioner

A certificate by the Commissioner, or by an officer of the Inland Revenue Department authorised in that behalf by the Commissioner, stating—

(a) that a specified person was, on a specified day, ordinarily resident in New Zealand; or

(b) that a specified person ceased, on a specified day, to be ordinarily resident in New Zealand; or

(c) that an application for formula assessment of child support was or was not made on a specified day by a specified person seeking payment of child support for a specified child from a specified person; or

(d) that an application for acceptance of a voluntary agreement was made on a specified day by a specified person; or

(e) that an application for acceptance of a voluntary agreement was not made on or before a specified day by a specified person—

is prima facie evidence of the matters stated in the certificate.

221 Commissioner may appear in legal proceedings by employee of the Crown

In any action, prosecution, or other proceeding under, or arising out of, this Act, the Commissioner may appear personally or, if the Commissioner thinks fit, appear by some employee of the Crown, and the statement of any person so appearing that the person is such an officer and is appearing for the Commis-

sioner shall be sufficient evidence of the facts so stated and of the authority of the person in that regard.

Compare: 1976 No 65 s 403

222 Proceedings not affected by vacancy or change in office of Commissioner

No action, prosecution, or other proceeding under, or arising out of, this Act shall abate by reason of any change in the office of Commissioner, or shall be deemed defectively constituted by reason of any change in the holder of that office, and every such action, prosecution or proceeding shall be continued in the ordinary course as if the Commissioner and his or her successor in office were a corporation sole.

Compare: 1976 No 65 s 405

223 Service on protected person

(1) Where a person against whom a formula assessment or order is sought under this Act is a person whose estate is being administered by a manager under the Protection of Personal and Property Rights Act 1988, notice of the application under this Act shall be served on the manager instead of on the respondent, and the manager shall then represent and act for the respondent in all the proceedings under this Act, and the like proceedings may be taken and the like order made as if there were no manager of that person's estate and that person had been duly served with notice of the application.

(2) All money payable under any formula assessment or order so made shall be paid by the manager out of the estate of the respondent according to the tenor of the assessment or order, subject to all other debts and liabilities of the respondent so far as the manager has notice of them.

Compare: 1980 No 94 s 156

224 Proceedings where respondent is absent from New Zealand or cannot be found

(1) Where an application or appeal is made to a court under this Act and it is proved to the satisfaction of the court that the respondent is absent from New Zealand or cannot be found, the court may—

(a) hear and determine the application or appeal in the same manner as if the respondent had been served with the appropriate notice of the proceeding; or

(b) order any steps to be taken to bring the proceeding to the notice of the respondent, and from time to time amend any such order.

(2) An order referred to in subsection (1)(b) may direct that notice of the proceeding be given by advertisement in any newspaper, or by the service of a notice on any solicitor or agent of the respondent or on any other person, or in any manner whatsoever.

(3) Where the court is satisfied that an order referred to in subsection (1)(b) has been complied with and that a reasonable time has elapsed since the steps directed by the order were taken, the court may if it thinks fit hear and determine the application in the same manner as if the respondent had been served with notice of the application.

Compare: 1980 No 94 s 157

225 Proceedings by or against minors

(1) A minor may bring and continue or defend any proceeding under this Act.

(2) Any order made under this Act against a minor shall be binding on and may be enforced against the minor, as if the minor were of full age.

Compare: 1980 No 94 s 158

226 Appointment of lawyer to represent child in proceedings

(1) In any proceedings under this Act (other than criminal proceedings), a court may appoint a lawyer to represent any child who is—

(a) the subject of the proceedings; or

(b) a party to the proceedings.

(2) An appointment under subsection (1) may be made only if the court is satisfied that the appointment is necessary or desirable.

Section 226: replaced, on 31 March 2014, by section 5 of the Child Support Amendment Act (No 3) 2013 (2013 No 75).

226A Appointment of lawyer to assist court

In any proceedings under this Act (other than criminal proceedings), a court may—

(a) appoint a lawyer to assist the court; or

(b) direct the Registrar of the court to appoint a lawyer to assist the court.

Section 226A: inserted, on 31 March 2014, by section 5 of the Child Support Amendment Act (No 3) 2013 (2013 No 75).

226B Fees and expenses of lawyer appointed under section 226 or 226A

(1) The fees and expenses of a lawyer appointed under section 226 or 226A must—

(a) be determined in accordance with regulations made under section 16D of the Family Court Act 1980 or, if no such regulations are made, by a Registrar of the court; and

(b) be paid in accordance with that determination out of public money appropriated by Parliament for the purpose.

(2) An invoice for fees and expenses submitted for payment by a lawyer appointed under section 226 or 226A must be given to a Registrar of the court, and

the Registrar processing the invoice may decide to adjust the amount of the invoice.

(3) A lawyer who is dissatisfied with the decision of the Registrar as to the amount of the invoice may, within 14 days after the date of the decision, apply to a Family Court Judge to review the decision, and the Judge may on the application make any order varying or confirming the decision that the Judge considers fair and reasonable.

(4) Where in any proceedings a lawyer has been appointed under section 226 or 226A and the fees and expenses relating to that appointment have been paid under subsection (1), the court must make an order under section 226C, unless the court declines to do so in accordance with that section.

(5) However, no order under section 226C may be made—

(a) against the Crown, whether acting through the department for the time being responsible for the administration of this Act or otherwise; or

(b) in respect of an appointment under section 226A, where a lawyer has been appointed under that section to provide to the court independent legal advice on any complex legal issue.

Section 226B: inserted, on 31 March 2014, by section 5 of the Child Support Amendment Act (No 3) 2013 (2013 No 75).

Section 226B(1)(a): amended, on 8 September 2018, by section 22(1) of the Statutes Amendment Act 2018 (2018 No 27).

Section 226B(1)(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 226B(2): replaced, on 8 September 2018, by section 22(2) of the Statutes Amendment Act 2018 (2018 No 27).

226C Order requiring reimbursement of costs payments

(1) An order referred to in section 226B(4) must require the parties to reimburse to the Crown the prescribed proportion of the amount paid by the Crown, under section 226B(1)(b), in respect of the fees and expenses of a lawyer appointed under section 226 or 226A.

(2) Despite subsection (1), the court may decline to make an order against a party if satisfied that the order would cause serious hardship to the party or to a dependent child of the party.

(3) Each party against whom an order is made under subsection (1) must pay an equal share of the prescribed proportion.

(4) Despite subsection (3), if the court is satisfied that, in view of the circumstances of the case, including the conduct of any party, it would be inappropriate to require a party to pay the amount payable in accordance with that subsection, the court may substitute, for that party, a different amount not exceeding the prescribed proportion.

(5) In this section,—

dependent child, in relation to a party, means a child whose day-to-day care is substantially the responsibility of the party

prescribed proportion means the same proportion that is prescribed by regulations made under section 147 of the Care of Children Act 2004 for the purposes of section 135A of that Act

serious hardship, in relation to a party or a dependent child of the party,—

(a) includes significant financial difficulties that arise because of—

(i) the party's inability to meet minimum living expenses according to normal community standards; or

(ii) the cost of medical treatment for an illness or injury of the party or a dependent child of the party; or

(iii) a serious illness suffered by the party or by a dependent child of the party; or

(iv) the cost of education for a dependent child of the party:

(b) does not include significant financial difficulties that arise because—

(i) the social activities and entertainment of the party or those of a dependent child of the party may be limited; or

(ii) the party is unable to afford goods or services that are expensive or of a high quality or standard according to normal community standards.

Section 226C: inserted, on 31 March 2014, by section 5 of the Child Support Amendment Act (No 3) 2013 (2013 No 75).

226D Enforcement of orders made under section 226C

(1) The amount that a party is ordered to reimburse under section 226C is a debt due to the Crown by that party and may be enforced in the District Court or the High Court, as the case may require, in the same manner as a judgment of that court.

(2) Despite section 219 or 230 of the District Court Act 2016 or section 156 of the Senior Courts Act 2016, no court fee is payable by a person who seeks to enforce, on behalf of the Crown, an order referred to in subsection (1), but the fee that would otherwise be payable—

(a) is to be added to the amount sought to be enforced; and

(b) must be paid to the Registrar of the court out of any proceeds that result from the enforcement.

(3) For the purposes of section 14(1)(b) of the Crown Proceedings Act 1950, the Secretary for Justice may, on behalf of the Crown, enforce a debt under this section.

Section 226D: inserted, on 31 March 2014, by section 5 of the Child Support Amendment Act (No 3) 2013 (2013 No 75).

Section 226D(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 226D(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 226D(2): amended, on 1 March 2017, by section 183(b) of the Senior Courts Act 2016 (2016 No 48).

227 Vexatious proceedings

(1) The Family Court or District Court may dismiss any proceeding before it under this Act if it is satisfied that it is frivolous or vexatious or an abuse of the procedure of the court.

(2) The Family Court or District Court may, if it is satisfied that a person has persistently instituted vexatious proceedings under this Act or any former Act (whether against the same person or against different persons), after giving the first-mentioned person an opportunity of being heard, order that no proceeding under this Act, or no such proceeding of any specified kind or against any specified person, shall be commenced by the first-mentioned person without the leave of the court.

(3) Nothing in this section limits section 12B of the Family Court Act 1980 or section 216A of the District Court Act 2016.

Compare: 1980 No 94 s 163

Section 227(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 227(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 227(3): inserted, on 17 February 2026, by section 16 of the Victims of Family Violence (Strengthening Legal Protections) Legislation Act 2025 (2025 No 2).

228 Evidence

[Repealed]

Section 228: repealed, on 31 March 2014, by section 17A(c) of the Family Courts Act 1980 (1980 No 161).

229 Power of Family Court or District Court to call witnesses

(1) In any proceeding before it under this Act (not being criminal proceedings) the Family Court or District Court may of its own motion call as a witness any person whose evidence may in its opinion be of assistance to the court.

(2) The power conferred by subsection (1) shall include power to call as a witness any party to the proceeding or the husband or wife of any party to the proceeding.

(3) A witness called by the court under this section shall have the same privilege to refuse to answer any question as the witness would have if the witness had been called by a party to the proceeding.

(4) A witness called by the court under this section may be examined and re-examined by the court, or by any barrister or solicitor assisting the court, and may be cross-examined by or on behalf of any party to the proceeding or by any barrister or solicitor appointed to represent a child who is involved in the proceeding.

(5) Sections 159 and 161 to 165 of the Criminal Procedure Act 2011, so far as they are applicable and with the necessary modifications, shall apply with respect to every person called as a witness by the court under this section as if that person had been called by a party to the proceeding.

(6) The expenses of any witness called by the court under this section, in accordance with the prescribed scale of witnesses' expenses, shall be paid in the first instance out of public money appropriated by Parliament.

Compare: 1980 No 94 s 165

Section 229(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 229(5): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

230 Proof of certain matters

(1) In any proceeding under this Act, a document purporting to be the original or a certified copy of a certificate, entry, or record of a birth, death, civil union, or marriage alleged to have taken place, whether in New Zealand or in any other country, may be received without further proof as evidence of the facts stated in the document.

(2) In any proceeding under this Act, a document purporting to be a decree or order made by the court or public authority, whether in New Zealand or elsewhere—

(a) may be received without further proof as evidence of the existence, nature, and purport of that decree or order; and

(b) every such decree or order shall be presumed to be valid unless the contrary is proved.

Compare: 1980 No 94 s 166

Section 230(1): amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 230(2): amended, on 26 September 2006, by section 43 of the Child Support Amendment Act 2006 (2006 No 42).

231 Standard of proof

Every question of fact arising in any proceeding under this Act (not being criminal proceedings) shall be decided on a balance of probabilities.

Compare: 1980 No 94 s 167

232 Costs

(1) In any proceeding under this Act the court may make such order as to costs as it thinks fit but all costs awarded against the Commissioner shall be payable out of public money appropriated by Parliament and not otherwise.

(2) This section is subject to section 226B(4).

Compare: 1964 No 136 s 27W; 1980 No 157 s 7

Section 232(2): inserted, on 31 March 2014, by section 6 of the Child Support Amendment Act (No 3) 2013 (2013 No 75).

233 Court fees

(1) Unless otherwise provided by regulations made under section 235, no court fees shall be taken by a Registrar of the Family Court or District Court in respect of any proceeding under this Act.

(2) Where it appears to a Registrar of the Family Court or District Court that the payment of any fees prescribed as payable in respect of any proceeding under this Act, or of those fees in full, would cause undue hardship to the person liable for their payment, the Registrar may write off the whole or such part of the fees as the Registrar thinks fit, and may, without further appropriation than this section, refund all such fees that have already been paid or any part of such fees.

Compare: 1980 No 94 s 186

Section 233(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 233(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

234 Rules of procedure

(1) The Governor-General may from time to time, by Order in Council, make rules and regulations regulating the practice and procedure of the District Court in proceedings under this Act.

(1A) Rules may be made under section 16A of the Family Court Act 1980 regulating the practice and procedure of the Family Court in proceedings under this Act.

(2) Without limiting the generality of the powers conferred by subsection (1) of this section or section 16A of the Family Court Act 1980, rules made under either of those provisions may—

(a) prescribe such forms as are necessary for the purposes of this Act:

(b) prescribe the costs and charges to be paid by one party in the proceeding to the other party, in addition to money paid out of pocket:

(c) prescribe fees payable to persons giving evidence in the proceeding and the persons liable to pay those fees, and authorise the refund or writing-off of those fees:

(d) require any party to the proceeding or any person required to appear in answer to a summons under section 190(1) to supply to the court particulars of both that person's financial means and their sources:

(e) provide for the taking of evidence in the proceeding, whether in New Zealand or elsewhere, including—

(i) the prescribing of the procedure for the taking of the evidence of witnesses who are beyond New Zealand; and

(ii) the taking of evidence before any District Court Judge or the Registrar of any court (whether or not the proceeding was commenced in that court) and the making of such incidental provision as the Governor-General thinks fit, including provision for requiring the attendance of witnesses, the answering of questions, and the production of documents:

(f) provide for any other matters in respect of which rules are contemplated under this Act.

(3) Rules and regulations under subsection (1) are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1980 No 94 s 188

Legislation Act 2019 requirements for secondary legislation made under subsection (1)		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 234(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 234(1): amended, on 13 September 2002, by section 6 of the Family Courts Amendment Act 2000 (2000 No 65).

Section 234(1A): inserted, on 13 September 2002, by section 6 of the Family Courts Amendment Act 2000 (2000 No 65).

Section 234(1A): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 234(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 234(2): amended, on 13 September 2002, by section 6 of the Family Courts Amendment Act 2000 (2000 No 65).

Section 234(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

235 Regulations

(1) The Governor-General may from time to time, by Order in Council, make regulations, not inconsistent with this Act, for all or any of the following purposes:

(a) *[Repealed]*

(b) *[Repealed]*

(c) *[Repealed]*

(ca) *[Repealed]*

(d) *[Repealed]*

(e) prescribing the duties and functions of officers and other persons appointed or employed under this Act:

(f) prescribing offences in respect of the contravention of or non-compliance with any regulations made under this Act, and the amount of the fines that may be imposed in respect of any such offences, which fines shall be an amount not exceeding $500:

(g) providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.

(2) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(2) *[Repealed]*

(3) *[Repealed]*

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 235(1)(a): repealed, on 26 September 2006, by section 44 of the Child Support Amendment Act 2006 (2006 No 42).

Section 235(1)(b): repealed, on 26 September 2006, by section 44 of the Child Support Amendment Act 2006 (2006 No 42).

Section 235(1)(c): repealed, on 24 July 1999, by section 35(1)(a) of the Child Support Amendment Act 1999 (1999 No 81).

Section 235(1)(ca): repealed, on 24 July 1999, by section 17(2) of the Child Support Amendment Act 1999 (1999 No 81).

Section 235(1)(d): repealed, on 31 March 2014, by section 7 of the Child Support Amendment Act (No 3) 2013 (2013 No 75).

Section 235(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 235(2): repealed, on 26 September 2006, by section 44 of the Child Support Amendment Act 2006 (2006 No 42).

Section 235(3): repealed, on 24 July 1999, by section 35(1)(b) of the Child Support Amendment Act 1999 (1999 No 81).

236 Changes in published statistics to be disregarded

(1) This section applies to publication by Statistics New Zealand of—

(a) the ordinary time average weekly earnings (for males and females combined) or any measure certified by the Government Statistician as being equivalent to that index; or

(b) the index number of the Consumers Price Index.

(2) A correction to those statistics that is published by that department must be disregarded for the purposes of this Act if—

(a) the correction is published at any time after 1 January immediately preceding the start of a child support year; and

(b) the statistics corrected are—

(i) as at mid-February immediately preceding the start of the most recent tax year in relation to the ordinary time average weekly earnings (for males and females combined); or

(ii) for the year ending on 31 December immediately preceding the start of the child support year in relation to the index number of the Consumers Price Index.

Section 236: substituted, on 24 July 1999, by section 36(1) of the Child Support Amendment Act 1999 (1999 No 81).

Section 236(1): amended, on 15 December 1994, pursuant to section 2(7) of the Statistics Amendment Act 1994 (1994 No 159).

Section 236(1)(a): amended, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Section 236(1)(b): amended, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Section 236(2)(b)(i): amended, on 1 April 2005 (effective for 2005–06 tax year and later), by section YA 2 of the Income Tax Act 2004 (2004 No 35).

Section 236(2)(b)(ii): amended, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

237 Rounding of amounts

(1) The following amounts must be rounded to whole dollars:

(a) late payment penalties:

(b) the amounts identified in the child expenditure table approved under section 36D:

(c) the living allowances as identified in section 35A(2):

(d) the minimum annual rate of child support referred to in section 72(1)(a).

(2) Except as provided elsewhere in this Act, the Commissioner may round any other amount referred to in, or arrived at in accordance with, this Act to a whole dollar or to any amount less than a whole dollar.

(3) If an amount that is rounded to a whole dollar consists of a number of whole dollars and 50 cents, the amount must be rounded down to the nearest whole dollar.

Section 237: replaced, on 1 April 2015, by section 30 of the Child Support Amendment Act 2013 (2013 No 12).

238 Applications by agents

(1) A person who may apply for a formula assessment under this Act may do so by an agent authorised in writing by that person.

(2) If a person is incapable of authorising an agent under subsection (1) to make an application on that person's behalf—

(a) the manager of that person's estate under the Protection of Personal and Property Rights Act 1988 may make the application; or

(b) where there is no such manager, the next friend of the person may make the application.

239 Notification requirements

(1) Any person who is a liable person or a payee under this Act shall, as soon as practicable, advise the Commissioner of any change to that person's address.

(2) The Commissioner may, by written notice given to a person who is a carer of a qualifying child, a liable person, or a payee under this Act, require the person to notify the Commissioner, as soon as practicable and in the manner specified in the notice, if—

(a) an event or change of circumstances specified in the notice happens; or

(b) the person becomes aware that an event or change of circumstances specified in the notice is likely to happen.

(3) An event or change of circumstances must not be specified in a notice under subsection (2) unless the happening of the event or change of circumstances might affect the payment of child support or the annual rate at which it is payable.

Section 239(2): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

240 Secrecy

(1) For the purposes of this section,—

information to which this section applies means any information which the Commissioner has obtained pursuant to or under the Inland Revenue Acts, including all Acts (whether repealed or not) at any time administered by or in the Inland Revenue Department, or pursuant to or arising out of such other functions as may from time to time be, or have been, lawfully conferred on the Commissioner

Inland Revenue Acts has the same meaning as in section 3 of the Tax Administration Act 1994

officer of the Department has the same meaning as in section 3 of the Tax Administration Act 1994

person to whom this section applies means any person who acquires or has access to or is given, through the agency of the Commissioner pursuant to this section, any information to which this section applies.

(2) For the purposes of the Tax Administration Act 1994, the following communications shall be deemed to be communications of matters made for the purpose of carrying into effect the provisions of this Act:

(a) the communication of such information as is necessary for the purpose of any prosecution under any Act of the Parliament of New Zealand or under the law of any country or territory outside New Zealand, or such information as the Commissioner considers desirable for the purpose of any investigation into any suspected offence being a prosecution or, as the case may be, an investigation in relation to—

(i) any threat made by a liable parent against the welfare of any carer of any child of that person or the welfare of that child; or

(ii) any threat made by a liable spouse or partner against the welfare of the person to whom the liable spouse or partner is required to make payments under this Act; or

(iii) any threat made by a liable person against the welfare of an officer of the Inland Revenue Department:

(b) the communication, to the person who, in relation to any liable person and to any financial support payable by the liable person under this Act, is the payee, of such information as the Commissioner considers desirable for the purpose of informing that person of the amount of any such financial support that is in arrear and unpaid by the liable person and the enforcement actions that have been taken or are proposed for the purpose of securing payment of that amount:

(ba) the communication from time to time, to the person who, in relation to any liable person and to any financial support payable by the liable person under this Act, is the payee, of such information as the Commissioner considers desirable for the purpose of informing that person, in relation to any period, of the amount of any such financial support that has been paid by the liable person for or during that period, and the date or dates on which the payment or payments have been made:

(c) *[Repealed]*

(d) the communication, to the General Manager of Veterans' Affairs New Zealand or any member of the Defence Force authorised in that behalf, of information relating to the amount of financial support paid by the Commissioner pursuant to Part 9 of this Act to any person whose income is required to be determined for the purposes of the Social Security Act 2018 or Part 6 of the Veterans' Support Act 2014:

(db) the communication, to the Chief Executive of the Ministry of Justice or any officer of the Ministry of Justice authorised in that behalf, of information for the purpose of carrying into effect subpart 4 of Part 5A:

(dc) the communication, to the Commissioner of Police or any Police employee authorised in that behalf, of information for the purpose of carrying into effect subpart 4 of Part 5A:

(e) the communication, to the Chief Executive of the Ministry of Justice or any officer of the Ministry of Justice authorised in that behalf, of information for the purposes of—

(i) the enforcement outside New Zealand of—

(A) child support liabilities; or

(B) maintenance liabilities,—

that arose under this Act or under the Family Proceedings Act 1980; or

(ii) the enforcement within New Zealand of child support or maintenance liabilities that arose under the law of a foreign country.

(3) Any person to whom this section applies—

(a) shall, if and when required by the Commissioner to do so, certify in the manner prescribed in subsection (5) that he or she has been shown, has read, and has understood the provisions of this section; and

(b) thereafter shall be bound to maintain and aid in maintaining the secrecy of all matters relating to the Inland Revenue Acts, including all Acts (whether repealed or not) at any time administered by or in the Inland Revenue Department or relating to such other functions as may from time to time be, or have been, lawfully conferred on the Commissioner which come to his or her knowledge; and

(c) shall not at any time communicate such matters to any person except for any purpose or purposes for which the Commissioner authorises such disclosure and to the extent that the Commissioner authorises such disclosure.

(4) Without limiting the generality of subsection (3), it is hereby declared that no person to whom this section applies shall be required to produce in any court or tribunal any book or document, or to divulge or communicate to any court or tribunal any matter or thing which that person may acquire or have access to or be given by way of information to which this section applies.

(5) The certificate referred to in subsection (3) shall be given in the form prescribed by the Commissioner, and shall include the full name, address, and signature of the person giving the certificate and the date on which the certificate is given.

(6) The certificate referred to in subsection (3) and subsection (5) shall,—

(a) where it is given by any persons referred to in subsection (2)(d), be kept by Veterans' Affairs New Zealand as a permanent record; or

(b) where it is given by any persons referred to in subsection (2)(db) or (e), be kept by the Ministry of Justice as a permanent record; or

(bb) if it is given by any persons referred to in subsection (2)(dc), be kept by the New Zealand Police as a permanent record; or

(c) where it is given by any other person referred to in subsection (2), be kept by the Inland Revenue Department as a permanent record.

(7) Every person to whom this section applies who knowingly acts in contravention of any provision of this section commits an offence against this section and is liable on conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding $15,000.

(8) Notwithstanding anything in any other Act, nothing shall prevent the Commissioner or any officer of the Inland Revenue Department from—

(a) using information obtained under this Act for the purposes of carrying into effect the provisions of any of the Inland Revenue Acts; or

(b) using information obtained under any of the Inland Revenue Acts for the purposes of carrying into effect the provisions of this Act.

(9) sections 18 to 18J of the Tax Administration Act 1994 shall not prevent officers of the Inland Revenue Department from advising persons who potentially are liable persons of the amount of child support that is likely to be payable by that person, based on the income of that person.

(10) *[Repealed]*

(11) *[Repealed]*

Section 240(1) **Inland Revenue Acts**: amended, on 1 April 1995 (applying with respect to tax on income derived in 1995–96 and subsequent income years), by section YB 1 of the Income Tax Act 1994 (1994 No 164).

Section 240(1) **officer of the Department**: amended, on 1 April 1995 (applying with respect to tax on income derived in 1995–96 and subsequent income years), by section YB 1 of the Income Tax Act 1994 (1994 No 164).

Section 240(2): amended, on 1 April 1995 (applying with respect to tax on income derived in 1995–96 and subsequent income years), by section YB 1 of the Income Tax Act 1994 (1994 No 164).

Section 240(2)(a): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 240(2)(a)(i): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 240(2)(a)(ii): amended, on 25 February 2016, by section 53 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 240(2)(a)(ii): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 240(2)(a)(ii): amended, of 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Section 240(2)(ba): inserted, on 1 February 1999, by section 80 of the Social Security Amendment Act 1998 (1998 No 19).

Section 240(2)(c): repealed, on 31 August 2017, by section 383(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section 240(2)(d): replaced, on 31 August 2017, by section 383(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section 240(2)(d): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section 240(2)(db): inserted, on 26 September 2006, by section 45(1) of the Child Support Amendment Act 2006 (2006 No 42).

Section 240(2)(dc): inserted, on 26 September 2006, by section 45(1) of the Child Support Amendment Act 2006 (2006 No 42).

Section 240(2)(dc): amended, on 1 October 2008, by section 130(1) of the Policing Act 2008 (2008 No 72).

Section 240(2)(e): amended, on 1 October 2003, pursuant to section 14(1) of the State Sector Amendment Act 2003 (2003 No 41).

Section 240(2)(e): amended, on 1 October 2003, pursuant to section 14(2) of the State Sector Amendment Act 2003 (2003 No 41).

Section 240(2)(e): amended, on 1 July 1995, by section 10(1) of the Department of Justice (Restructuring) Act 1995 (1995 No 39).

Section 240(6)(a): replaced, on 31 August 2017, by section 383(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section 240(6)(b): amended, on 26 September 2006, by section 45(2) of the Child Support Amendment Act 2006 (2006 No 42).

Section 240(6)(b): amended, on 1 October 2003, pursuant to section 14(1) of the State Sector Amendment Act 2003 (2003 No 41).

Section 240(6)(bb): inserted, on 26 September 2006, by section 45(3) of the Child Support Amendment Act 2006 (2006 No 42).

Section 240(7): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 240(9): amended, on 18 March 2019, by section 326 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section 240(9): amended, on 1 April 2015, by section 34 of the Child Support Amendment Act 2013 (2013 No 12).

Section 240(9): amended, on 1 April 1995 (applying with respect to tax on income derived in 1995–96 and subsequent income years), by section YB 1 of the Income Tax Act 1994 (1994 No 164).

Section 240(10): repealed, on 31 August 2017, by section 383(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section 240(11): repealed, on 31 August 2017, by section 383(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Part 15
Amendments to other Acts

Amendment to Accident Compensation Act 1982

241 Compensation not assignable

Amendment(s) incorporated in the Act(s).

Amendment to Administration Act 1969

242 Protection of administrator against certain claims

Amendment(s) incorporated in the Act(s).

Amendment to Adoption Act 1955

243 Effect of adoption order

Amendment(s) incorporated in the Act(s).

Amendment to Children, Young Persons, and Their Families Act 1989

244 Recovery of cost of maintenance of children and young persons in care

Amendment(s) incorporated in the Act(s).

Amendment to Companies Act 1955

245 Preferential payments

Amendment(s) incorporated in the Act(s).

Amendment to District Courts Act 1947

246 Effect of attachment orders

Amendment(s) incorporated in the Act(s).

Amendment to Family Courts Act 1980

247 Jurisdiction of Family Courts

Amendment(s) incorporated in the Act(s).

Amendments to Income Tax Act 1976

248 Incomes wholly exempt from tax

Amendment(s) incorporated in the Act(s).

249 Interpretation of term pay-period taxpayer

Amendment(s) incorporated in the Act(s).

Amendment to Inland Revenue Department Act 1974

250 Interpretation

Amendment(s) incorporated in the Act(s).

Amendments to Insolvency Act 1967

251 Priorities

Amendment(s) incorporated in the Act(s).

252 Debts from which discharge releases bankrupt

Amendment(s) incorporated in the Act(s).

Part 16
Transitional and savings provisions

253 No liability to pay financial support under this Act until 1 July 1992

Notwithstanding section 1(3)—

(a) no person shall be liable to pay financial support under this Act; and

(b) no person shall be entitled to receive financial support under this Act; and

(c) no person shall make a deduction from any money payable to a liable person,—

in respect of any period before 1 July 1992, and every provision of this Act shall be read accordingly.

Enforcement of maintenance liabilities after Royal assent

254 Changes to ways in which maintenance liabilities may be enforced

Amendment(s) incorporated in the Act(s).

255 Evidence of default

Amendment(s) incorporated in the Act(s).

Enforcement of liable parent contributions payable before 1 July 1992

256 Savings in respect of outstanding liable parent contributions

(1) Notwithstanding the Social Security Amendment Act (No 5) 1991,—

(a) sections 10A, 12J, 27I to 27ZI (except section 27X) and Schedule 20 of the Social Security Act 1964 shall continue to apply; and

(b) section 27X of the Social Security Act 1964 shall continue to apply—

in respect of any liable parent contributions assessed under that Act which are due but unpaid at the close of 30 June 1992 as if those sections and that schedule had not been repealed or amended by the Social Security Amendment Act (No 5) 1991.

(2) Notwithstanding subsection (1), the chief executive of the department for the time being responsible for the administration of the Social Security Act 1964 shall not be required to exercise his or her powers in respect of any such contributions if the chief executive considers that to do so would not be economically viable.

Section 256(1)(a): amended, on 17 September 1997, by section 2 of the Child Support Amendment Act (No 2) 1997 (1997 No 67).

Section 256(2): amended, on 1 October 1998, by section 11 of the Employment Services and Income Support (Integrated Administration) Act 1998 (1998 No 96).

257 Saving in respect of assignment of accident compensation

Notwithstanding section 241 of this Act, nothing in section 89 of the Accident Compensation Act 1982 shall affect section 27Y of the Social Security Act 1964 (as applied pursuant to section 256 of this Act).

258 Saving in respect of jurisdiction of Family Courts

Notwithstanding section 247 of this Act, a Family Court shall hear and determine all such proceedings as are to be heard and determined by such a court under or by virtue of sections 27I to 27ZI of the Social Security Act 1964 (as applied pursuant to section 256 of this Act), and section 11 of the Family Courts Act 1980 shall apply accordingly.

Enforcement of maintenance liabilities payable before 1 July 1992

259 Savings in respect of outstanding maintenance liabilities

(1) Notwithstanding the Family Proceedings Amendment Act 1991,—

(a) sections 2, 6, 7, and Parts 6 and 7 (except section 101) of the Family Proceedings Act 1980 (as amended by this Part) shall continue to apply; and

(b) section 101 and section 101A of that Act (as substituted by section 254 of this Act) and section 101B of that Act (as inserted by section 2 of the Family Proceedings Amendment Act 1997) shall continue to apply,—

in respect of the enforcement of the liability of any person to pay maintenance under that Act which is due but unpaid at the close of 30 June 1992 under a maintenance order as if those sections and those Parts had not been amended or repealed by the Family Proceedings Amendment Act 1991.

(2) In this section, **maintenance order** has the same meaning as it had in section 2 of the Family Proceedings Act 1980 immediately before the amendment of that definition by the Family Proceedings Amendment Act 1991.

Section 259(1)(a): amended, on 17 September 1997, by section 3(a) of the Child Support Amendment Act (No 2) 1997 (1997 No 67).

Section 259(1)(b): amended, on 17 September 1997, by section 3(b) of the Child Support Amendment Act (No 2) 1997 (1997 No 67).

260 Savings in respect of assignment of accident compensation

Notwithstanding section 241 of this Act, nothing in section 89 of the Accident Compensation Act 1982 shall affect sections 105, 110, 118, and 121 of the Family Proceedings Act 1980 (as applied pursuant to section 259 of this Act).

Conversion of liable parent contributions

261 Automatic applications for formula assessment in respect of existing liable parent contributors

(1) Where—

(a) any person is, on 15 March 1992, a liable parent under the Social Security Act 1964; and

(b) the Commissioner obtains sufficient information from the chief executive of the department for the time being responsible for the administration of the Social Security Act 1964 to be satisfied that the information required to be provided under section 14 of this Act has been provided,—

the custodian of the qualifying child in respect of whom those contributions are so required to be made shall be deemed to have made a properly made application for formula assessment of child support in relation to that child and that liable parent on 16 March 1992, and the provisions of this Act shall, with any necessary modifications, apply accordingly.

(2) The Commissioner shall, as soon as practicable, give a notice in accordance with section 23 to each liable parent to whom this section applies.

(3) Any person to whom any such notice is given and who disputes that he or she is a parent of the child within the meaning of section 7 shall, notwithstanding section 92, notify the Commissioner in writing of that fact not more than 2 months after the date on which the notice is given.

(4) Where any such notification is received by the Commissioner,—

(a) subsection (1) shall not apply; and

(b) if the custodian is an eligible custodian of that child who is in receipt of a social security benefit, the custodian shall be required to make an application for formula assessment of child support in relation to that child and that liable parent in accordance with section 9; and

(c) if the custodian is an eligible custodian of that child who is not in receipt of a social security benefit, the custodian may make an application for formula assessment of child support in relation to that child and that liable parent under section 8.

Section 261(1)(a): amended (with effect on 18 December 1991), on 1 April 1993, by section 3 of the Child Support Amendment Act 1993 (1993 No 15).

Section 261(1)(b): amended, on 1 October 1998, by section 11 of the Employment Services and Income Support (Integrated Administration) Act 1998 (1998 No 96).

Child maintenance liabilities after 1 July 1992 under existing court orders and registered agreements

262 Expiry of certain suspended child maintenance orders and agreements

(1) Every maintenance order—

(a) which is made before 1 July 1992 under Part 6 of the Family Proceedings Act 1980 requiring payments to be made towards the maintenance of any child; and

(b) which is, as at the close of 30 June 1992, suspended and unenforceable by reason of the operation of section 27J of the Social Security Act 1964,—

shall cease to remain in force at the close of the 30 June 1992.

(2) Every maintenance agreement,—

(a) which is registered under section 83 of the Family Proceedings Act 1980 and which has effect as a maintenance order under section 84 of that Act; and

(b) which is, as at the close of 30 June 1992, suspended and unenforceable by reason of the operation of section 27J of the Social Security Act 1964,—

shall cease to be registered under the Family Proceedings Act 1980 at the close of 30 June 1992.

263 Continuation of certain other child maintenance orders and agreements

(1) This section applies where any person is, at the commencement of 1 July 1992, required to pay money towards the support of any child under—

(a) a maintenance order of the court; or

(b) a maintenance agreement registered under section 83 of the Family Proceedings Act 1980 which has effect as a maintenance order under section 84 of that Act; or

(c) any maintenance order made against any person by any court in a Commonwealth or designated country that has before 1 July 1992 been registered or confirmed in New Zealand under the Family Proceedings Act 1980.

(2) Each order or agreement to which this section applies—

(a) may be enforced in accordance with section 264 or section 265, as the case may be; and

(b) shall continue in full force and effect until whichever is the earliest of the following dates:

(i) the date on which child support under a formula assessment commences to be payable, in accordance with this Act, to the person entitled to receive payments under the order or agreement, by the person liable to make those payments; or

(ii) in a case where a voluntary agreement made in relation to the child between the parties to the order or agreement is accepted by the Commissioner, the date on which that voluntary agreement first applies in accordance with section 59; or

(iii) the date on which a benefit is granted 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 to the person who is entitled to receive payments under the order or agreement; or

(iv) the date that the order or agreement would have expired if this Act had not been passed,—

and thereupon, at the close of that date, shall cease to remain in force or shall cease to be registered or confirmed under the Family Proceedings Act 1980, as the case may be.

Section 263(2)(b)(iii): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section 263(2)(b)(iii): amended, on 21 April 2005, by section 9(1) of the New Zealand Superannuation and Retirement Income Amendment Act 2005 (2005 No 42).

Section 263(2)(b)(iii): amended, on 12 October 2001, by section 77 of the New Zealand Superannuation Act 2001 (2001 No 84).

264 Enforcement of Department of Social Welfare administered child maintenance orders and agreements

(1) This section applies to every order and agreement to which section 263 applies and in respect of which the Commissioner receives from the Director-General of Social Welfare, before 1 July 1992, the following information:

(a) the name and current address of the person entitled to receive payments under the order or agreement; and

(b) the names and dates of birth of each child in respect of whom the maintenance is payable; and

(c) the amount payable for each child, the frequency of the payments, and the date on which the order ceases to remain in force; and

(d) such other information as the Commissioner may require in order to be satisfied that the information required to be provided under section 14 has been provided.

(2) Every order or agreement to which this section applies—

(a) shall be deemed, for the purposes of enforcement by the Commissioner, to be a qualifying voluntary agreement that has been accepted by the Commissioner under Part 3; and

(b) the provisions of sections 58 to 65 shall, with the necessary modifications, apply accordingly, except that—

(i) notwithstanding section 59, child support under the order or agreement shall commence to be payable from 1 July 1992:

(ii) notwithstanding section 62 of this Act, child support under the order or agreement shall cease to be payable on the date on which the order or agreement ceases to remain in force or ceases to be registered or confirmed under the Family Proceedings Act 1980, as the case may be, in accordance with section 263(2)(b) of this Act.

(3) The Commissioner shall, as soon as practicable, give a notice in accordance with section 60 to each party to an order or agreement to which this section applies.

(4) Any person to whom any such notice is given and who disputes the accuracy of any information given by the Director-General of Social Welfare shall notify the Commissioner in writing of that fact not more than 28 days after the date on which the notice is given.

(5) Where any such notification is received by the Commissioner,—

(a) subsection (2) shall not apply; and

(b) any party to the order or agreement who wishes the Commissioner to enforce it shall be required to make an application under section 265(2)(a).

265 Enforcement of other child maintenance orders and agreements

(1) This section applies to every order and agreement to which section 263 applies and in respect of which either—

(a) the Commissioner does not receive from the Director-General of Social Welfare, before 1 July 1992, the following information:

(i) the name and current address of the person entitled to receive payments under the order; and

(ii) the names and dates of birth of each child in respect of whom the maintenance is payable; and

(iii) the amount payable for each child, the frequency of the payments, and the date on which the order ceases to remain in force; and

(iv) such other information as the Commissioner may require in order to be satisfied that the information required to be provided under section 14 has been provided; or

(b) section 264(5)(b) applies.

(2) Any order or agreement to which this section applies may be enforced in one of the following ways:

(a) either party to the order or agreement may apply to the Commissioner in writing for acceptance of that order or agreement for the purposes of enforcement; or

(b) to the extent that paragraph (a) does not apply, all money payable under the order or agreement shall, as soon as it is in arrear and unpaid, constitute a debt by the person against whom the order or agreement was made to the person to whom the money is payable pursuant to the order or agreement, and that money may, without prejudice to any mode of recovery, be enforceable by any person in the same manner as a judgment given in the District Court in civil proceedings.

(3) Notwithstanding section 55, an application for the purposes of subsection (2)(a) shall be deemed to be properly made if it—

(a) provides satisfactory evidence of—

(i) the name and last known address of the person required to make payments under the order; and

(ii) the amount payable towards the maintenance of the applicant, the frequency of payment, and the date on which the order ceases to remain in force; and

(b) is signed by either party to the order or agreement; and

(c) complies with section 55(1)(d) to (g) as if the order or agreement were a voluntary agreement.

(4) Where any such application is properly made within the meaning of subsection (3),—

(a) the order or agreement shall be deemed for the purposes of enforcement by the Commissioner, to be a qualifying voluntary agreement that has been accepted by the Commissioner under Part 3; and

(b) the provisions of sections 58 to 65 shall, with the necessary modifications, apply accordingly,—

except that—

(i) notwithstanding section 59, child support under the order or agreement shall commence to be payable—

(A) in any case where the application and all the information required to be provided is received by the Commissioner on or before 30 June 1992, on 1 July 1992; or

(B) in any case where the application and all the information required to be provided is not received by the Commissioner on or before 30 June 1992, on the day on which the

application and all the information required to be provided is received by the Commissioner; and

(ii) notwithstanding section 62 of this Act, child support under the order or agreement shall cease to be payable on the date on which the order or agreement ceases to remain in force or ceases to be registered or confirmed under the Family Proceedings Act 1980, as the case may be, in accordance with section 263(2)(b) of this Act.

266 Deferral of commencement of formula assessment in certain cases

Where—

(a) any party to an order or agreement to which section 263 applies makes an application for formula assessment of child support; and

(b) another party to that order or agreement makes an application to the Family Court under section 104 within 2 months after the date on which the notice of assessment was given by the Commissioner; and

(c) the Family Court either—

(i) declines the application; or

(ii) declines to make an order pursuant to the application; or

(iii) makes an order in determination of that application,—

child support under a formula assessment shall, notwithstanding section 18, commence to be payable from such date as the Judge determines in the particular case, being a date that is not earlier than the date on which the application to the Family Court under section 104 was made.

Continuation of existing maintenance orders after 1 July 1992

Heading: amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

267 Enforcement of Department of Social Welfare administered maintenance orders and agreements

(1) This section applies where—

(a) any person is, on 30 June 1992, required to pay money towards the support of any other person (other than a child of the first-mentioned person) under—

(i) a maintenance order of the court; or

(ii) a maintenance agreement registered under section 83 of the Family Proceedings Act 1980 which has effect as a maintenance order under section 84 of that Act; or

(iii) an order made under section 78 or section 81 of the Family Proceedings Act 1980; or

(iv) any maintenance order made against any person by any court in a Commonwealth or designated country that has been registered in New Zealand under the Family Proceedings Act 1980; and

(b) except in the case of an order referred to in paragraph (a)(iv), the amount payable under the order or agreement is not less than $10 per week; and

(c) the Commissioner obtains the following information from the Director-General of Social Welfare on or before 30 June 1992:

(i) the name and address of the person entitled to receive payments under the order or agreement; and

(ii) the amount payable towards the maintenance of that other person, the frequency of the payments, and the date on which the order or agreement ceases to remain in force.

(2) Where this section applies to an order or agreement,—

(a) the party towards whose support money is required to be paid under the order or agreement shall be deemed to have applied to the Commissioner for enforcement of the order or agreement; and

(b) the order or agreement shall be deemed to be an order to which Part 4 applies that was made on 1 July 1992.

(3) The Commissioner shall, as soon as practicable, give a notice to each party to an order or agreement to which this section applies specifying the information that has been obtained from the Director-General of Social Welfare under this section.

(4) Any person to whom any such notice is given and who disputes the accuracy of any information given by the Director-General of Social Welfare shall notify the Commissioner in writing of that fact not more than 28 days after the date on which the notice is given.

(5) Where any such notification is received by the Commissioner,—

(a) in relation to any order or agreement referred to in any of subparagraphs (i), (ii), or (iii) of subsection (1)(a),—

(i) subsection (2) shall not apply; and

(ii) the person who is entitled to receive the payments under the order or agreement shall be required to make an application under section 268(1) if that person wishes the Commissioner to enforce the order or agreement:

(b) in relation to any order referred to in subparagraph (iv) of subsection (1)(a), the notification shall be deemed to be an objection made under section 90(2) to an appealable decision, and the provisions of this Act shall, with the necessary modifications, apply accordingly.

Section 267 heading: amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

268 Enforcement of other maintenance orders and agreements

(1) This section applies to every order and agreement to which section 267(1)(a) and (b) applies and in respect of which either—

(a) no application is deemed to be made under section 267(2)(a); or

(b) section 267(5)(a)(ii) applies.

(2) The person who is entitled to receive payments under any order or agreement to which this section applies may, in a written application made to the Commissioner, request that the order or agreement be deemed to be an order to which Part 4 applies.

(3) Every such request shall provide satisfactory evidence of—

(a) the name and last known address of the person required to make payments under the order or agreement; and

(b) the amount payable towards the maintenance of the applicant, the frequency of the payments, and the date on which the order or agreement ceases to remain in force.

(4) Where the Commissioner accepts such a request, the order or agreement shall be deemed to be an order made,—

(a) in any case where the request and all the information required to be provided is received by the Commissioner on or before 30 June 1992, on 1 July 1992; or

(b) in any case where the request and all the information required to be provided is not received by the Commissioner on or before 30 June 1992, on the day on which the request and all the information required to be provided is received by the Commissioner.

Section 268 heading: amended, on 26 April 2005, by section 3 of the Child Support Amendment Act 2005 (2005 No 6).

Child Support Amendment Act (No 3) 2013

Heading: inserted, on 31 March 2014, by section 8 of the Child Support Amendment Act (No 3) 2013 (2013 No 75).

268A Transitional provision for proceedings commenced before commencement of Child Support Amendment Act (No 3) 2013 but not completed

(1) This section applies to proceedings under this Act that were commenced before the date of commencement of the Child Support Amendment Act (No 3) 2013 but were not by that date completed (a **pending proceeding**).

(2) The following provisions do not apply to a pending proceeding:

(a) section 226A:

(b) section 226B:

(c) section 226C:

(d) section 226D.

(3) Section 226, as in force immediately before the date of commencement of the Child Support Amendment Act (No 3) 2013, continues to apply to a pending proceeding with any necessary modifications as if the Child Support Amendment Act (No 3) 2013 had not come into force.

Section 268A: inserted, on 31 March 2014, by section 8 of the Child Support Amendment Act (No 3) 2013 (2013 No 75).

Miscellaneous provisions

269 Transfer of information during transitional period

Notwithstanding anything in any other Act, the Director-General of Social Welfare shall, to the extent that it is practicable to do so, provide the Commissioner with the information referred to in section 261 and section 264 and section 267 so as to enable the provisions of those sections and of this Act to be carried into effect.

270 Beneficiaries to apply for child support from 16 March 1992

Nothing in section 9 shall require any person who is in receipt of a social security benefit to apply for a formula assessment of child support before 16 March 1992.

271 Assessment activity under Social Security Act 1964 to cease from 16 March 1992

Notwithstanding the Social Security Act 1964,—

(a) a liable parent who is, after 15 March 1992, given notice of a grant of benefit under section 27L of that Act shall not be required to notify the Director-General of Social Welfare of his or her total income under section 27M of that Act; and

(b) the Director-General of Social Welfare shall cease to be required, after 15 March 1992, to determine a liable parent's weekly income or to calculate any contribution under section 27N of that Act.

272 Transitional date for calculating living allowance

For the purpose of calculating the amount of the living allowance to which a person is entitled for the child support year ending with 31 March 1993, every reference in section 30 to 1 January in the immediately preceding child support year shall be deemed to be a reference to 1 January 1992.

273 Transitional date for departure order and lump sum order applications

For the purposes of section 104 and section 108, a formula assessment that is issued by the Commissioner before 1 July 1992 shall be deemed to come into force on the date on which it is issued by the Commissioner.

275 Application of repealed provisions of Tax Administration Act 1994

Where a provision of this Act (a relevant provision)—

(a) refers to a provision of the Tax Administration Act 1994 that is repealed by the Tax Administration Amendment Act (No 2) 1996; and

(b) incorporates the repealed provision for any purpose to give effect to the relevant provision,—

the repealed provision shall be deemed to continue in effect for the purpose of giving effect to the relevant provision.

Section 275: added, on 26 July 1996, by section 12 of the Child Support Amendment Act 1996 (1996 No 65).

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

(1) The application, transitional, and savings provisions set out in Schedule 1, which relate to amendments to this Act that come into force on and after 1 April 2015, have effect for the purposes of this Act.

(2) The application, transitional, and savings provisions are set out in the following Parts of Schedule 1:

Part heading	Part of Schedule 1
Child Support Amendment Act 2013, etc: provisions relating to amendments effective on 1 April 2015	1
Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016	1A
Child Support Amendment Act 2013: Provisions relating to amendments effective on 1 April 2016	2
Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019	3
Provisions relating to Child Support Amendment Act 2021	4
Provisions relating to Taxation (Budget 2021 and Remedial Measures) Act 2021	5
Provisions relating to Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022	6
Provisions relating to Child Support (Pass On) Acts Amendment Act 2023	7
Provisions relating to Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024	8

Section 276: inserted, on 17 April 2013, by section 31 of the Child Support Amendment Act 2013 (2013 No 12).

Section 276 heading: amended (with effect on 1 April 2015), on 25 February 2016, by section 54(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 276(1): amended (with effect on 1 April 2015), on 25 February 2016, by section 54(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 276(1): amended (with effect on 17 April 2013), on 27 February 2014, by section 148 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section 276(2): inserted, on 25 February 2016, by section 54(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 276(2) table: amended, on 30 March 2025, by section 264(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section 276(2) table: amended, on 1 April 2016, by section 62 of the Child Support Amendment Act 2013 (2013 No 12) (as amended by section 68 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Schedule 1
Application, transitional, and savings provisions relating to amendments to Act made on or after 1 April 2015

ss 3A, 276

Schedule 1: inserted, on 17 April 2013, by section 32 of the Child Support Amendment Act 2013 (2013 No 12).

Schedule 1 heading: amended (with effect on 1 April 2015), on 25 February 2016, by section 55(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Schedule 1 heading: amended (with effect on 17 April 2013), on 27 February 2014, by section 149(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Part 1
Child Support Amendment Act 2013, etc: provisions relating to amendments effective on 1 April 2015

Part 1 heading: inserted, on 25 February 2016, by section 55(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1) (as amended by section 163(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4)).

1 Definitions

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

commencement date means 1 April 2015 (which is the date on which the enactments listed in clause 1A(2) come into force)

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

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

new provisions means the provisions of this Act as amended by the enactments listed in clause 1A(2); and references to **new section** and **new Part** have a corresponding meaning

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

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

old provisions means the provisions of this Act as they are immediately before the enactments listed in clause 1A(2) come into force; and references to **old section** and **old Part** have a corresponding meaning.

Schedule 1 clause 1 **commencement date**: amended (with effect on 1 April 2015), on 25 February 2016, by section 55(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Schedule 1 clause 1 **commencement date**: amended (with effect on 17 April 2013), on 27 February 2014, by section 149(2)(a) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Schedule 1 clause 1 **new assessment**: amended (with effect on 1 April 2015), on 25 February 2016, by section 55(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Schedule 1 clause 1 **new provisions**: amended (with effect on 1 April 2015), on 25 February 2016, by section 55(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Schedule 1 clause 1 **old provisions**: amended (with effect on 1 April 2015), on 25 February 2016, by section 55(6) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

1A Application of Act to financial support for child support years ending before 1 April 2015

(1) This Act applies on and after 1 April 2015 in relation to financial support in respect of a child support year ending before that date as if the amendments made by the enactments listed in subclause (2) had not been made.

(2) The enactments are:

- (a) Part 1 of the Child Support Amendment Act 2013, except sections 6, 18, 19, 19A, 31, and 32:
- (b) sections 206 to 215 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014:
- (c) sections 15, 23, and 28(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016.

(3) Subclause (1) does not prevent—

- (a) section 179A(3) from applying in relation to child support payments in respect of a child support year ending before 1 April 2015; or
- (b) where section 179A(3) applies in relation to any such payments, relief being given under section 135F(a)(i) in respect of any related penalties.

(4) Subclause (1) does not limit the application of sections 17 to 19 of the Interpretation Act 1999 in relation to financial support in respect of a child support year ending before 1 April 2015.

(5) In this clause, references to financial support in respect of a child support year ending before 1 April 2015 include a reference to a penalty imposed under this Act (whether before, on, or after that date) that is treated as being of the same nature as an amount of such financial support.

Schedule 1 clause 1A: inserted (with effect on 1 April 2015), on 25 February 2016, by section 55(7) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

2 New provisions treated as if in force for certain purposes

(1) This clause applies for the purpose of ensuring that, at the start of the child support year commencing 1 April 2015, the annual rate of child support payable under the new formula has been ascertained in relation to every person who is or will be subject to a formula assessment on the commencement date.

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

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

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

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

Schedule 1 clause 2(1): amended (with effect on 17 April 2013), on 27 February 2014, by section 149(4) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

2A Reconciliation of estimation made under old provisions

Without limiting clause 1A, old sections 44 to 45 continue to apply on and after the commencement date in relation to old assessments.

Schedule 1 clause 2A: inserted (with effect on 1 April 2015), on 25 February 2016, by section 55(8) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

3 Determinations made under old provisions

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

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

4 Application for determination under old provisions

If a review or an application for a review under Part 6A or Part 6B has been commenced but not completed by the commencement date, the Commissioner must, on and after the commencement date, act on the basis that,—

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

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

5 Objections, appeals, and applications under old Parts 6 and 7

(1) An objection, appeal, or application relating to an old assessment may be lodged under and in accordance with old Part 6 or 7 before or after the com-

mencement date, in which case the matter must be dealt with and completed on the basis of the old provisions.

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

6 Orders made by court

Where an order of the court made under old section 106 or 109 affects, or will affect, a new formula assessment applying to a person, the Commissioner must act on the basis of that order in relation to any period after the commencement date to which the order applies.

7 Application for variation of court orders

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

8 Transitional regulations

[Repealed]

Schedule 1 clause 8: repealed, on 1 April 2017, by Schedule 1 clause 8(4).

Part 1A
Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016

Schedule 1 Part 1A: inserted, on 25 February 2016, by section 55(9) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

8AA Amendment of definition of social security benefit in section 2

(1) The amendments made by section 4(3) and (4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (the **2016 Act**) apply in relation to jobseeker support granted under section 88C(2) or (3) of the Social Security Act 1964 whether the grant is made before, on, or after the day referred to in section 2(2)(d) of the 2016 Act.

(2) In relation to times before that day, this Act applies on and after that day as if those amendments had not been made.

Schedule 1 clause 8AA: inserted, on 1 March 2016, by section 55(10) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

8A Amendment of sections 4A, 8, and 13 and insertion of new section 13A (applications for formula assessments)

The amendments made by sections 6 to 9 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 apply only in relation to applications for formula assessments made after the date on which that Act receives the Royal assent.

Schedule 1 clause 8A: inserted, on 25 February 2016, by section 55(9) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

8B Amendment of sections 2(1), 34, 35, 40AA, 40, 41, 42, 44, and 44A (adjusted taxable income)

The amendments made by sections 4(1), 13, 14, and 17 to 22 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 apply only in relation to child support in respect of the child support year commencing on 1 April 2016 or a later child support year.

Schedule 1 clause 8B: inserted, on 25 February 2016, by section 55(9) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

8C Amendment of sections 25, 51, 90(1), and 180 and replacement of section 27 (election by receiving carer to end formula assessment, etc)

The amendments made by sections 10, 11, 24, 28(1), 52, and 65 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016—

(a) apply only in relation to child support in respect of the child support year commencing on 1 April 2015 or a later child support year; but

(b) do not apply in relation to a formula assessment as it applies in respect of a qualifying child if, on or before the date on which the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 receives the Royal assent, a receiving carer of the child makes an election under section 27 of this Act that the liability of every liable parent to pay child support to the receiving carer in respect of the child under the formula assessment is to end.

Schedule 1 clause 8C: inserted, on 25 February 2016, by section 55(9) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

8D Amendment of sections 88, 88A, 91, and 103 (notices of, and objections to, assessments)

(1) The amendments made by sections 25, 26, 29, and 39 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 apply only in relation to assessments (including amended assessments) made after the date on which that Act receives the Royal assent in respect of the child support year commencing on 1 April 2015 or a later child support year (subject to subclause (2)).

(2) The amendments made by section 29(1), (2), and (4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 also apply in relation to amended assessments made on or before the date on which that Act receives the Royal assent in respect of the child support year commencing on 1 April 2015 or a later child support year.

(3) The Commissioner must, despite section 92(1) and (2), accept for consideration an objection to an amended assessment in relation to which the amendments referred to in subclause (2) apply if—

(a) the Commissioner gave notice of the amended assessment before the date on which the Act referred to in subclause (2) received the Royal assent; and

(b) the objection could not have been made on or before that date because of section 91(3) (as in force on and before that date); and

(c) the objection is delivered or posted to the Commissioner after that date within a period that the Commissioner considers to be reasonable; and

(d) the objection is otherwise properly made.

Schedule 1 clause 8D: inserted, on 25 February 2016, by section 55(9) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

8E Amendment of sections 89L and 96D (determinations that may be made by Commissioner under subpart 3 of Part 5A or Part 6A)

The amendments made by sections 27 and 31(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 apply only in relation to applications made after the date on which that Act receives the Royal assent.

Schedule 1 clause 8E: inserted, on 25 February 2016, by section 55(9) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

8F Amendment of sections 96X, 96Y, 96Z, and 96ZA (proceedings under Part 6B)

The amendments made by sections 32 to 35 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 apply only for cases where the Commissioner's decision to start proceedings under Part 6B is made after the date on which that Act receives the Royal assent in respect of the child support year commencing on 1 April 2015 or a later child support year.

Schedule 1 clause 8F: inserted, on 25 February 2016, by section 55(9) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

8G Amendment of section 99 (declarations in respect of step-parents)

The amendment made by section 37(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 applies

only in relation to proceedings on applications made after the date on which that Act receives the Royal assent.

Schedule 1 clause 8G: inserted, on 25 February 2016, by section 55(9) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

8H Amendment of section 102 (appeals against Commissioner's disallowance of objections)

The amendment made by section 38 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 applies only in relation to objections made after the date on which that Act receives the Royal assent.

Schedule 1 clause 8H: inserted, on 25 February 2016, by section 55(9) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

8I Amendment of section 107 (implementation of orders)

The amendment made by section 42 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 applies only in relation to orders under section 106, or determinations under section 89M, 89N, 96D, or 96ZB, made after the date on which that Act receives the Royal assent in respect of the child support year commencing on 1 April 2015 or a later child support year.

Schedule 1 clause 8I: inserted, on 25 February 2016, by section 55(9) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

8J Amendment of sections 130, 154, and 158 and replacement of section 129 (payment of financial support)

The amendments made by sections 43, 44, 50, and 51 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 apply in relation to the payment of financial support after the date on which that Act receives the Royal assent (including where the liability to pay the financial support arises on or before that date).

Schedule 1 clause 8J: inserted, on 25 February 2016, by section 55(9) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Part 2
Child Support Amendment Act 2013: Provisions relating to amendments effective on 1 April 2016

Schedule 1 Part 2: inserted, on 1 April 2016, by section 63(2) of the Child Support Amendment Act 2013 (2013 No 12) (as amended by section 163(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4)).

9 Amendments to Part 7 (grounds for departure from formula assessment)

[Repealed]

Schedule 1 clause 9: inserted, on 1 April 2016, by section 63(2) of the Child Support Amendment Act 2013 (2013 No 12) (as repealed by section 69(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1)).

10 Amendments to Part 8 (penalties imposed under section 134 before 1 April 2016)

(1) Section 134 (as substituted on 1 April 2016 by the Child Support Amendment Act 2013) does not limit or affect a person's liability to pay any penalties imposed in respect of the same debt under section 134 (as in force before 1 April 2016).

(2) The reference in section 134(1) (as substituted on 1 April 2016) to a financial support debt incurred before 1 April 2016 includes any initial late payment penalties or incremental penalties or both that are imposed under section 134(1) (as in force before 1 April 2016) in respect of, and that are deemed under section 134(2) (as in force before 1 April 2016) to be of the same nature as, that debt.

(3) An initial late payment penalty (seventh day after due date) under section 134(3) (as substituted on 1 April 2016) must not be imposed on a financial support debt on which an initial late payment penalty under section 134(1)(a) (as in force before 1 April 2016) was imposed on or after 25 March 2016.

(4) Section 134(4) (as substituted on 1 April 2016) applies to a financial support debt on which an initial late payment penalty under section 134(1)(a) (as in force before 1 April 2016) was imposed on or after 1 March 2016.

(5) Section 134(5) or (6) (as substituted on 1 April 2016) applies (as the case requires) to a financial support debt on which an incremental penalty under (as the case requires) section 134(1)(b) or (c) (as in force before 1 April 2016) was imposed on or after 1 March 2016.

(6) The Commissioner may, in the Commissioner's discretion, grant relief from initial late payment penalties, incremental penalties, or both, imposed on a person under section 134 (as substituted on 1 April 2016) if satisfied that the relief is necessary or desirable to prevent unfairness arising from corresponding equivalent penalties also having been imposed on the person under section 134 (as in force before 1 April 2016).

Schedule 1 clause 10: inserted, on 1 April 2016, by section 63(2) of the Child Support Amendment Act 2013 (2013 No 12) (as amended by section 163(4)–(10) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4)).

11 Insertion of sections 180A and 180C (Writing off of child support debt)

(1) In relation to child support in respect of a child support year ending before 1 April 2015, section 180A(1)(a) applies as if the reference to the receiving carer were to the qualifying custodian.

(2) In relation to child support in respect of a child support year ending before 1 April 2015 (including any penalty referred to in section 180D(a) to (c) relating to such child support), section 180C(a) applies as if the reference to the receiving carer were to the qualifying custodian.

Schedule 1 clause 11: inserted, on 1 April 2016, by section 63(2) of the Child Support Amendment Act 2013 (2013 No 12) (as amended by section 69(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1)).

Part 3
Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019

Schedule 1 Part 3: inserted, on 27 June 2019, by section 113 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

12 Exemption for victim of sex offence may take effect on or after 26 September 2006

(1) An application may be made, and an exemption may be granted, under subpart 4 of Part 5A (as in force after commencement) in respect of—

(a) a sex offence that was committed (or is alleged to have been committed) before or after commencement:

(b) periods before or after commencement.

(2) However, a day determined under section 89Z(3) (as in force after commencement) as the date on which the period of exemption commences may only be a date on or after 26 September 2006.

(3) In this clause, **commencement** means the commencement of section 113 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019.

Schedule 1 clause 12: inserted, on 27 June 2019, by section 113 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Part 4
Provisions relating to Child Support Amendment Act 2021

Schedule 1 Part 4: inserted, on 1 April 2021, by section 57(a) of the Child Support Amendment Act 2021 (2021 No 6).

13 Interpretation in this Part

In this Part,—

2021 Amendment Act means the Child Support Amendment Act 2021

commencement, in relation to any provision of the 2021 Amendment Act, means the commencement of that provision

old, in relation to a provision, means the provision as if the amendments made to the provision by the 2021 Amendment Act had not been made.

Schedule 1 clause 13: inserted, on 1 April 2021, by section 57(a) of the Child Support Amendment Act 2021 (2021 No 6).

Schedule 1 clause 13 **old Act**: repealed (with effect on 1 April 2021), on 30 March 2022, by section 243(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

14 2021 Amendment Act does not have retrospective effect

[Repealed]

Schedule 1 clause 14: repealed (with effect on 1 April 2021), on 30 March 2022, by section 243(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

15 Amendments to section 5 (Children who qualify for child support)

(1) The amendment to section 5(1) (financial independence qualification) made by section 5(1) of the 2021 Amendment Act applies only to a child who turns 16 on or after commencement of section 5(1) of the 2021 Amendment Act.

(2) The amendment to section 5 (age qualification) made by section 5(2) of the 2021 Amendment Act applies only to a child who turns 18 on or after commencement of section 5(2) of the 2021 Amendment Act.

(3) The old section 5 continues to apply if the child turned 18 before commencement of section 5(2) of the 2021 Amendment Act as if section 5(2) of the 2021 Amendment Act had not been enacted.

(4) The old section 5(4) continues to apply in relation to the child support year starting on 1 April 2015.

Schedule 1 clause 15: inserted, on 1 April 2021, by section 57(a) of the Child Support Amendment Act 2021 (2021 No 6).

16 Amendment to section 19 (When liability to pay child support starts)

(1) The amendment to section 19 made by section 6 of the 2021 Amendment Act applies only to applications for formula assessment of child support that are received by the Commissioner on or after commencement of section 6 of the 2021 Amendment Act.

(2) The old section 19 continues to apply if the application was made before commencement of section 6 of the 2021 Amendment Act.

Schedule 1 clause 16: inserted, on 1 April 2021, by section 57(a) of the Child Support Amendment Act 2021 (2021 No 6).

16A Amendment to section 44 (End-of-year reconciliation)

(1) The amendment to section 44 made by section 16 of the 2021 Amendment Act applies only in relation to child support in respect of child support years ending after commencement of section 16 of the 2021 Amendment Act.

(2) The old section 44 continues to apply in relation to child support in respect of child support years ending before commencement of section 16 of the 2021 Amendment Act.

Schedule 1 clause 16A: inserted (with effect on 1 April 2021), on 30 March 2022, by section 243(3) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

17 Insertion of section 81A (Amendments of assessments arising from living circumstances existing at time initial assessment made)

Section 81A (as inserted by section 18 of the 2021 Amendment Act) applies on or after commencement, including if the assessment was made before commencement of section 18 of the 2021 Amendment Act.

Schedule 1 clause 17: inserted, on 1 April 2021, by section 57(a) of the Child Support Amendment Act 2021 (2021 No 6).

18 Insertion of section 87A (Four-year time bar for amendment of certain assessments)

Section 87A (as inserted by section 20 of the 2021 Amendment Act) applies in respect of all child support years, whether ending before commencement or on or after commencement of section 20 of the 2021 Amendment Act.

Schedule 1 clause 18: inserted, on 1 April 2021, by section 57(a) of the Child Support Amendment Act 2021 (2021 No 6).

19 Savings provision about orders for offsetting of liabilities situations

The repeal of sections 105(2)(e) and 106B by sections 36 and 37 of the 2021 Amendment Act does not affect—

(a) any order made under section 106B before commencement of sections 36 and 37 of the 2021 Amendment Act, which continues in full force and effect; or

(b) the power of the court in any proceedings that were commenced under section 103B or 104 before commencement of sections 36 and 37 of the 2021 Amendment Act but that were not completed, and the court may make an order under section 106 on the ground in section 105(2)(e) as if sections 105(2)(e) and 106B had not been repealed.

Schedule 1 clause 19: inserted, on 1 April 2021, by section 57(a) of the Child Support Amendment Act 2021 (2021 No 6).

20 Amendments to section 134 (Penalties for late payment of financial support debts)

[Repealed]

Schedule 1 clause 20: repealed (with effect on 1 April 2021), on 24 May 2021, by section 9(1) of the Taxation (Budget 2021 and Remedial Measures) Act 2021 (2021 No 19).

21 Savings provision about relief from penalty if full or substantial compliance with payment arrangement entered into or made within 3-month period

Section 135GB continues to apply during the period beginning on 1 April 2021 and ending with the commencement of section 43 of the 2021 Amendment Act (sixty-day grace period before penalties apply) as if section 135GB had not been repealed by the 2021 Amendment Act and as if section 135GB applies both to initial late payment penalties that are imposed under old section 134 and to penalties that are imposed under new section 134.

Schedule 1 clause 21: inserted, on 1 April 2021, by section 57(a) of the Child Support Amendment Act 2021 (2021 No 6).

22 Amendment to section 152B (Offsetting child support payments)

The amendment to section 152B made by section 55 of the 2021 Amendment Act applies to all child support years, regardless of the period in which the liability to pay financial support arose or when an amount of financial support became due and payable.

Schedule 1 clause 22: inserted, on 1 April 2021, by section 57(a) of the Child Support Amendment Act 2021 (2021 No 6).

Part 5
Provisions relating to Taxation (Budget 2021 and Remedial Measures) Act 2021

Schedule 1 Part 5: inserted, on 1 November 2021, by section 9(2) of the Taxation (Budget 2021 and Remedial Measures) Act 2021 (2021 No 19).

23 Amendments to section 134 (Penalties for late payment of financial support debts)

The amendments to section 134 made by section 8(2) and (4) of the Taxation (Budget 2021 and Remedial Measures) Act 2021 apply to a financial support debt if the expiry of the seventh day after the due date falls on or after commencement of section 8(2) and (4) of that Act, but do not apply to a financial support debt if the expiry of the seventh day after the due date falls before commencement of those provisions.

Schedule 1 clause 23: inserted, on 1 November 2021, by section 9(2) of the Taxation (Budget 2021 and Remedial Measures) Act 2021 (2021 No 19).

Part 6
Provisions relating to Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022

Schedule 1 Part 6: inserted, on 30 March 2022, by section 243(4)(a) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

24 Interpretation in this Part

In this Part,—

2022 Act means the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022

commencement, in relation to any provision of the 2022 Act, means the commencement of that provision

old, in relation to a provision, means the provision as if the amendments made to the provision by the Child Support Amendment Act 2021 and the 2022 Act had not been made.

Schedule 1 clause 24: inserted, on 30 March 2022, by section 243(4)(a) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

25 Amendment to section 44 (End-of-year reconciliation)

(1) The amendment to section 44 made by section 236 of the 2022 Act applies only in relation to child support in respect of child support years ending after commencement of section 236 of the 2022 Act.

(2) The old section 44 continues to apply in relation to child support in respect of child support years ending before commencement of section 236 of the 2022 Act.

Schedule 1 clause 25: inserted, on 30 March 2022, by section 243(4)(a) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

26 Replacement of section 81A (Amendments of assessments arising from living circumstances existing at time when assessment begins)

Section 81A (as replaced by section 237 of the 2022 Act) applies on and after commencement, including if the assessment begins, was made, or both, before commencement of section 237 of the 2022 Act.

Schedule 1 clause 26: inserted, on 30 March 2022, by section 243(4)(a) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

27 Amendments to section 87A (Four-year time bar for amendment of certain assessments)

The amendments to section 87A made by section 238 of the 2022 Act apply in respect of all child support years, whether ending before commencement or on or after commencement of section 238 of the 2022 Act.

Schedule 1 clause 27: inserted, on 30 March 2022, by section 243(4)(a) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

28 Amendment to section 152B (Offsetting child support payments)

The amendment to section 152B made by section 241 of the 2022 Act applies to all child support years, regardless of the period in which the liability to pay financial support arose or when an amount of financial support became due and payable.

Schedule 1 clause 28: inserted, on 30 March 2022, by section 243(4)(a) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Part 7
Provisions relating to Child Support (Pass On) Acts Amendment Act 2023

Schedule 1 Part 7: inserted, on 1 July 2023, by section 19(a) of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

29 Application of amendments

(1) In this clause, **amendments** means the amendments made to this Act by subpart 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.

(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.

Schedule 1 clause 29: inserted, on 1 July 2023, by section 19(a) of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

30 Election by receiving carer to discontinue proceedings

(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.

(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).

Schedule 1 clause 30: inserted, on 1 July 2023, by section 19(a) of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

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).

Schedule 1 clause 31: inserted, on 1 July 2023, by section 19(a) of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

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.

Schedule 1 clause 32: inserted, on 1 July 2023, by section 19(a) of the Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27).

Part 8
Provisions relating to Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024

Schedule 1 Part 8: inserted, on 29 March 2024, by section 174 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

33 Amendment to section 87A (Four-year time bar for amendment of certain assessments)

The amendment to section 87A made by section 173 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 applies in respect of all child support years, whether ending before, on, or after 26 October 2021.

Schedule 1 clause 33: inserted, on 29 March 2024, by section 174 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Schedule 2
Care cost percentage

ss 2(1), 16

Schedule 2: inserted, on 1 April 2015, by section 33 of the Child Support Amendment Act 2013 (2013 No 12).

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

Schedule 3
Expenditure on children

s 36D

Schedule 3: inserted, on 1 April 2015, by section 33 of the Child Support Amendment Act 2013 (2013 No 12).

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

Fraction of AWE	**Percentages of child support income amounts**					
	Age group: all children aged 0 to 12			*Age group: all children aged 13 or over*		
	Number of children			Number of children		
	1	2	3 or more	1	2	3 or more
Up to and including 0.5	17%	24%	27%	23%	29%	32%
More than 0.5 but no more than 1	15%	23%	26%	22%	28%	31%
More than 1 but no more than 1.5	12%	20%	25%	12%	25%	30%
More than 1.5 but no more than 2	10%	18%	24%	10%	20%	29%
More than 2 but no more than 2.5	7%	10%	18%	9%	13%	20%
More than 2.5	†	†	†	†	†	†

* Average weekly earnings (for all industries, males and females combined), published by Statistics New Zealand (or if that index ceases to be published, any measure certified by the Government Statistician as being equivalent to that index) for the June quarter in the immediately preceding child support year. The weekly earnings are annualised.

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

Schedule 3: amended, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Schedule 3: amended, on 1 April 2022, by section 244 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Schedule 3: amended, on 1 April 2022, by section 58 of the Child Support Amendment Act 2021 (2021 No 6).

Child Support Amendment Act 1993

Public Act	1993 No 15
Date of assent	1 April 1993
Commencement	see section 1(2)

1 Short Title and commencement

(1) This Act may be cited as the Child Support Amendment Act 1993, and shall be read together with and deemed part of the Child Support Act 1991 (hereinafter referred to as "the principal Act").

(2) This Act shall be deemed to have come into force on 18 December 1991.

4 Saving

Nothing in this Act shall affect the rights of the parties under any judgment given in any court before the passing of this Act, or under any judgment given on appeal from any such judgment, whether the appeal is commenced before or after the passing of this Act.

Child Support Amendment Act 1994

Public Act	1994 No 74
Date of assent	15 July 1994
Commencement	see section 1(2)

1 Short Title and commencement

(1) This Act may be cited as the Child Support Amendment Act 1994, and shall be read together with and deemed part of the Child Support Act 1991 (hereinafter referred to as "the principal Act").

(2) Except as otherwise provided in sections 5(2), 6(2), 8(3), and 9(4), this Act shall come into force on the date on which it receives the Royal assent.

13 Transitional provision relating to departure order applications pending as at 1 July 1994

(1) Where an application has been made to the Family Court under section 104 of the principal Act before 1 July 1994 but has not been heard by the court, the applicant may elect, subject to this section, to withdraw the application and to make an application to the Commissioner under Part 6A of the principal Act.

(2) There shall be no right of election if—

(a) the qualifying custodian or the liable parent is a party to another application pending in a Family Court, and the court is satisfied that it would be appropriate for the court to consider the application made under section 104 of the principal Act at the same time as it hears the other application; or

(b) the application relates, wholly or in part, to child support payable in the child support year ending on 31 March 1994 or any earlier child support year.

(3) No person may exercise the right contained in this section later than 1 September 1994 or the date on which the court commences hearing the application, whichever is the earlier.

Child Support Amendment Act 1996

Public Act	1996 No 65
Date of assent	26 July 1996
Commencement	26 July 1996

1 Short Title and application

(1) This Act may be cited as the Child Support Amendment Act 1996, and shall be read together with and deemed part of the Child Support Act 1991 (in this Act referred to as "the principal Act").

(2) This Act shall apply with respect to obligations, liabilities, and rights in respect of the 1997–98 income year and subsequent years.

Child Support Amendment Act 1998

Public Act	1998 No 103
Date of assent	7 October 1998
Commencement	7 October 1998

1 Short Title

This Act may be cited as the Child Support Amendment Act 1998, and is part of the Child Support Act 1991 ("the principal Act").

4 Application requirements (voluntary agreements)

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies on and after 1 April 1999.

5 New section inserted

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies to applications for refunds of amounts paid in excess on and after 1 April 2000.

Child Support Amendment Act 1999

Public Act	1999 No 81
Date of assent	23 July 1999
Commencement	see section 1(2)–(5)

1 Short Title and commencement

(1) This Act may be cited as the Child Support Amendment Act 1999, and is part of the Child Support Act 1991 ("the principal Act").

(2) Except as provided in subsections (3) to (5), this Act comes into force on the day after the date on which it receives the Royal assent.

(3) Section 5 (meaning of term living allowance) comes into force on 1 October 1999.

(4) Section 10 (amendments to election where taxable income for child support purposes is estimated to have fallen at least 15% that apply from 1 April 2001) comes into force on 1 April 2001.

(5) Part 2 (amendment to Family Proceedings Act 1980) comes into force on a date to be appointed by the Governor-General by Order in Council.

Part 1
Amendments to principal Act

2 Interpretation

(1)–(3) *Amendment(s) incorporated in the Act(s).*

(4) This section applies with respect to child support payable in relation to the child support year commencing on 1 April 2001, and subsequent years.

4 Basic amount of child support payable

(1)–(4) *Amendment(s) incorporated in the Act(s).*

(5) This section applies with respect to child support payable in relation to the child support year commencing on 1 April 2001, and subsequent years.

6 Position where taxable income from source deduction payments not available

(1) *Amendment(s) incorporated in the Act(s).*

(2) This section applies with respect to child support payable in relation to the child support year commencing on 1 April 2001, and subsequent years.

7 Position where taxable income not readily ascertainable

(1) *Amendment(s) incorporated in the Act(s).*

(2) This section applies with respect to child support payable in relation to the child support year commencing on 1 April 2001, and subsequent years.

10 Amendments to election where taxable income for child support purposes is estimated to have fallen at least 15% that apply from 1 July 2001

(1) *Amendment(s) incorporated in the Act(s).*

(2) This section applies with respect to child support payable in relation to the child support year commencing on 1 April 2001, and subsequent years.

11 Effect of election

(1) *Amendment(s) incorporated in the Act(s).*

(2) This section applies to child support payable in relation to the child support year commencing on 1 April 2000, and subsequent years.

12 Revocation of election

(1), (2) *Amendment(s) incorporated in the Act(s).*

(3) This section applies with respect to child support payable in relation to the child support year commencing on 1 April 2000, and subsequent years.

13 Effect of revocation

(1), (2) *Amendment(s) incorporated in the Act(s).*

(3) This section applies with respect to child support payable in relation to the child support year commencing on 1 April 2000, and subsequent years.

14 Reconciliation of estimated and actual taxable income after end of child support year

(1), (2) *Amendment(s) incorporated in the Act(s).*

(3) This section applies with respect to child support payable in relation to the child support year commencing on 1 April 2000, and subsequent years.

16 Penalty where income underestimated

(1) *Amendment(s) incorporated in the Act(s).*

(2) This section applies with respect to child support payable in relation to the child support year commencing on 1 April 2001, and subsequent years.

17 Interest to be charged on underestimations

(1)–(3) *Amendment(s) incorporated in the Act(s).*

(4) This section is deemed to apply with respect to child support payable in relation to the child support year that commenced on 1 April 1999, and subsequent years.

24 Orders that may be made

(1) *Amendment(s) incorporated in the Act(s).*

(2) This section applies with respect to child support payable in relation to the child support year commencing on 1 April 2001, and subsequent years.

28 Relief where child support overpaid before estimation

(1) *Amendment(s) incorporated in the Act(s).*

(2) This section applies with respect to child support payable in relation to the child support year commencing on 1 April 2000, and subsequent years.

35 Regulations

(1) *Amendment(s) incorporated in the Act(s).*

(2) This section applies with respect to child support payable in relation to the child support year that commences on 1 April 2001, and subsequent years.

36 Changes in published statistics to be disregarded

(1) *Amendment(s) incorporated in the Act(s).*

(2) This section applies with respect to child support payable in relation to the child support year that commences on 1 April 2001, and subsequent years.

Child Support Amendment Act 2001

Public Act	2001 No 90
Date of assent	6 November 2001
Commencement	see section 2

1 Title

(1) This Act is the Child Support Amendment Act 2001.

(2) In this Act, the Child Support Act 1991 is called "the principal Act".

2 Commencement

Except as provided in section 3(5), this Act comes into force on the day after the date on which it receives the Royal assent.

3 Remedial amendments relating to relevant income year for assessments of child support

(1)–(4) *Amendment(s) incorporated in the Act(s).*

(5) This section is deemed to have come into force on 1 April 2001 and applies to child support payable for the child support year that commenced on 1 April 2001 and for subsequent child support years.

(6) Despite subsection (5), this section does not apply to an assessment for the child support year that commenced on 1 April 2001 if—

(a) a liable parent objected to the assessment on the ground set out in section 91(1)(a) of the principal Act because the assessment was based on income from the wrong income year and delivered or posted notice of the objection to the Commissioner before 12 June 2001; and

(b) the assessment is altered by the Commissioner under section 92(4) of the principal Act pursuant to the objection.

4 Maximum rate of child support

(1)–(4) *Amendment(s) incorporated in the Act(s).*

(5) This section applies to child support payable for the child support year commencing 1 April 2002 and for subsequent child support years.

5 Minimum rate of child support

(1) *Amendment(s) incorporated in the Act(s).*

(2) The principal Act is further amended as set out in the Schedule.

(3) This section applies to child support payable for the child support year commencing 1 April 2002 and for subsequent child support years.

(4) The new minimum annual rate of child support substituted by this Act does not apply to orders and determinations made on or before the commencement of

this Act, or to formula assessments that implement those orders and determinations.

(5) The new minimum annual rate of child support substituted by this Act applies to orders and determinations made after the commencement of this Act, and to formula assessments that implement those orders and determinations, but only in relation to child support payable on or after 1 April 2002.

(6) Subsections (4) and (5) do not limit any power to review or vary an order, determination, or formula assessment.

District Courts Amendment Act 2002

Public Act	2002 No 63
Date of assent	18 December 2002
Commencement	see section 2

1 Title

(1) This Act is the District Courts Amendment Act 2002.

(2) In this Act, the District Courts Act 1947 is called "the principal Act".

District Courts Amendment Act 2002: repealed, on 1 January 2018, pursuant to section 240 of the District Court Act 2016 (2016 No 49).

2 Commencement

This Act comes into force on a date appointed by the Governor-General by Order in Council.

Section 2: District Courts Amendment Act 2002 brought into force, on 24 November 2003, by clause 2 of the District Courts Amendment Act Commencement Order 2003 (SR 2003/281).

5 Transitional

An appeal, under any enactment, commenced before the commencement of section 3 must be determined as if sections 3 and 4 had not been enacted.

Child Support Amendment Act 2003

Public Act	2003 No 8
Date of assent	26 March 2003
Commencement	see section 2

1 Title

This Act is the Child Support Amendment Act 2003.

2 Commencement

This Act comes into force on the day on which it receives the Royal assent.

4 Unremitted deductions made by employers

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies to obligations under the principal Act that arise on and after 1 April 2004.

5 Protected net earnings rate

(1)–(3) *Amendment(s) incorporated in the Act(s).*

(4) Subsections (1) to (3) apply to obligations under the principal Act that arise on and after 1 April 2004.

6 Position where liable person has 2 or more employers

(1), (2) *Amendment(s) incorporated in the Act(s).*

(3) Subsections (1) and (2) apply to obligations under the principal Act that arise on and after 1 April 2004.

Child Support Amendment Act 2006

Public Act	2006 No 42
Date of assent	25 September 2006
Commencement	see section 2

1 Title

This Act is the Child Support Amendment Act 2006.

2 Commencement

(1) Sections 10 and 11 come into force on the day that is 1 month from the first day of the month following the month in which this Act receives the Royal assent.

(2) Sections 33 and 34 come into force on the day that is 2 months from the first day of the month following the month in which this Act receives the Royal assent.

(3) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

Part 1
Amendments to Child Support Act 1991

6 New section 7A inserted

(1) *Amendment(s) incorporated in the Act(s).*

(2) This section applies to documents provided to the Commissioner on or after the commencement of this section.

17 New Part 5A inserted

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subparts 1, 2, 4, and 5 of Part 5A (as inserted by this section) apply to applications for exemptions from the payment of financial support under the principal Act received by the Commissioner on or after the commencement of this section (regardless of whether or not a period of exemption under subpart 2 of Part 5A occurs before or after that date).

(3) Subsection (2) does not limit section 89H, 89I, or 89Z.

32 New sections 135 to 135O and headings substituted

(1) *Amendment(s) incorporated in the Act(s).*

(2) Sections 135 to 135O (as substituted by subsection (1)) apply to penalties that are imposed before or after the commencement of this section.

39 Adoption of reciprocal agreement with other countries

(1) *Amendment(s) incorporated in the Act(s).*

(2) Despite subsection (1), clause 4 of the Child Support (Reciprocal Agreement with Australia) Order 2000 (SR 2000/85) as in force immediately before the commencement of this section continues in force until it is revoked.

42 New sections 216B to 216D inserted

(1) *Amendment(s) incorporated in the Act(s).*

(2) This section applies to amounts to be refunded on and after the commencement of this section.

Transitional provisions

46 Pending applications for exemptions

(1) This section applies to an application for an exemption made under section 73 of the principal Act before the commencement of this section if, before the commencement of this section, the Commissioner has not made a decision under section 74(1) of the principal Act in relation to the application.

(2) The Commissioner must consider and make a decision on an application to which this section applies as if this Act had not been enacted.

(3) Despite the amendment of section 90(1)(i) of the principal Act by section 18, that paragraph of the principal Act (as it read immediately before the commencement of this section) continues to apply to an application to which this section applies.

(4) Subsection (2) does not prevent a person who has made an application to which this section applies from withdrawing the application before the Commissioner has made a decision on it and making a new application to the Commissioner under Part 5A of the principal Act.

(5) Subsection (4) does not limit section 89H of the principal Act.

47 Continuation of exemptions

(1) This section applies to—

(a) an exemption granted under section 74(1) of the principal Act if, immediately before the commencement of this section, the period of exemption has not ended; and

(b) an exemption granted under section 74(1) of the principal Act on an application to which section 46 applies.

(2) Despite the repeal of sections 73 to 76 of the principal Act by section 15,—

(a) those sections of the principal Act (as they read immediately before the commencement of section 15) continue to apply to an exemption to which this section applies; and

(b) the period of exemption of an exemption to which this section applies ends on the earlier of—

(i) the day that the exemption would have ended if this Act had not been enacted; or

(ii) the day on which the period of exemption ends in accordance with a determination made under subpart 3 of Part 5A.

(3) Despite the amendment of section 208 of the principal Act by section 38, section 208(a) of the principal Act (as it read immediately before the commencement of section 38) continues to apply to an exemption to which this section applies.

48 Pending objections

Every objection made under Part 6 of the principal Act before the commencement of this section that has not, before the commencement of this section, been determined by the Commissioner must be determined by the Commissioner as if this Act had not been enacted.

49 Transitional provision relating to certain pending applications made under principal Act

(1) This section applies to an application to a Family Court under section 104(2)(b)(i) of the principal Act that was made before the commencement of this section if—

(a) the application has not been heard by the court before the commencement of this section; and

(b) the person who made the application did not apply for the determination referred to in that subparagraph.

(2) The person who made the application to which this section applies may, subject to subsection (3), elect to withdraw the application and to appeal to the court under section 103B of the principal Act.

(3) However, the person does not have a right of election if—

(a) that person is a party to another application pending in a Family Court, and the Family Court is satisfied that it would be appropriate for a Family Court to consider the application made under section 104 of the principal Act at the same time as it hears the other application; or

(b) the application relates, wholly or in part, to child support payable in the child support year ending on 31 March 1994 or any earlier child support year.

(4) If an election is not made under this section before a Family Court commences hearing an application then, despite the amendment of section 104 of the principal Act by section 26, that person's application must be determined by a Family Court as if this Act had not been enacted.

Notes

1 General

This is a consolidation of the Child Support Act 1991 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 Legal status

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 Editorial and format changes

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 Amendments incorporated in this consolidation

Taxation (Annual Rates for 2025–26, Compliance Simplification, and Remedial Measures) Act 2026 (2026 No 8): section 236

Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9): section 264

Victims of Family Violence (Strengthening Legal Protections) Legislation Act 2025 (2025 No 2): Part 2 subpart 2

Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11): sections 173, 174

Child Support (Pass On) Acts Amendment Act 2023 (2023 No 27): Part 1 subpart 1

Family Court (Family Court Associates) Legislation Act 2023 (2023 No 25): Part 2 subpart 3

Data and Statistics Act 2022 (2022 No 39): section 107(1)

Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10): sections 234–244

Births, Deaths, Marriages, and Relationships Registration Act 2021 (2021 No 57): section 147

Reserve Bank of New Zealand Act 2021 (2021 No 31): section 300(1)

Taxation (Budget 2021 and Remedial Measures) Act 2021 (2021 No 19): Part 2

Secondary Legislation Act 2021 (2021 No 7): section 3

Child Support Amendment Act 2021 (2021 No 6) (as amended by Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10))

Education and Training Act 2020 (2020 No 38): section 668

COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10): sections 25–29

Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33): sections 108–113

Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5): sections 323–326

Social Security Act 2018 (2018 No 32): section 459

Statutes Amendment Act 2018 (2018 No 27): Part 5

Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5): sections 404, 406

Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31): section 149

Land Transfer Act 2017 (2017 No 30): section 250

Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14): section 383

District Court Act 2016 (2016 No 49): section 261

Senior Courts Act 2016 (2016 No 48): section 183(b)

Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27): sections 220–222

Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1): sections 4–55

Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39): sections 206–215

Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4): sections 147–149

Child Support Amendment Act (No 3) 2013 (2013 No 75)

Marriage (Definition of Marriage) Amendment Act 2013 (2013 No 20): section 9

Child Support Amendment Act 2013 (2013 No 12)

Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88): section 239

Criminal Procedure Act 2011 (2011 No 81): section 413

District Courts Amendment Act 2011 (2011 No 30): section 43

Limitation Act 2010 (2010 No 110): section 58

Child Support Amendment Act 2008 (2008 No 75)

Policing Act 2008 (2008 No 72): section 130(1)

Income Tax Act 2007 (2007 No 97): section ZA 2(1)

Child Support Amendment Act 2006 (2006 No 42)

New Zealand Superannuation and Retirement Income Amendment Act 2005 (2005 No 42): section 9(1)

Child Support Amendment Act 2005 (2005 No 6)

Status of Children Amendment Act 2004 (2004 No 91): section 16

Income Tax Act 2004 (2004 No 35): section YA 2

Child Support Amendment Act (No 2) 2003 (2003 No 125)

Supreme Court Act 2003 (2003 No 53): section 47

State Sector Amendment Act 2003 (2003 No 41): section 14

Child Support Amendment Act 2003 (2003 No 8)

District Courts Amendment Act 2002 (2002 No 63): section 4

Sentencing Act 2002 (2002 No 9): section 186

Public Trust Act 2001 (2001 No 100): section 170(1)

Child Support Amendment Act 2001 (2001 No 90)

Taxation (Taxpayer Assessment and Miscellaneous Provisions) Act 2001 (2001 No 85): sections 258(1), 260(1), 261(1)–(3), 262(1)

New Zealand Superannuation Act 2001 (2001 No 84): section 77

Government Superannuation Fund Amendment Act 2001 (2001 No 47): section 40

Property (Relationships) Amendment Act 2001 (2001 No 5): section 64(2)

Family Courts Amendment Act 2000 (2000 No 65): section 6

Legal Services Act 2000 (2000 No 42): section 126(1)

Personal Property Securities Act 1999 (1999 No 126): section 191(1)

Child Support Amendment Act 1999 (1999 No 81)

Stamp Duty Abolition Act 1999 (1999 No 61): section 7

Trustee Banks Restructuring Act Repeal Act 1999 (1999 No 53): section 5

Child Support Amendment Act 1998 (1998 No 103)

Employment Services and Income Support (Integrated Administration) Act 1998 (1998 No 96): section 11

Social Security Amendment Act 1998 (1998 No 19): sections 57, 80

Student Allowances Regulations 1998 (SR 1998/277): regulation 49

Child Support Amendment Act (No 3) 1997 (1997 No 76)

Child Support Amendment Act (No 2) 1997 (1997 No 67)

Child Support Amendment Act 1996 (1996 No 65)

Income Tax Act 1994 Amendment Act 1996 (1996 No 17): section 55(1)

Department of Justice (Restructuring) Act 1995 (1995 No 39): section 10(1)

Banking Act Repeal Act 1995 (1995 No 32): section 2(2)

Government Superannuation Fund Amendment Act 1995 (1995 No 28): section 31

Income Tax Act 1994 (1994 No 164): section YB 1

Statistics Amendment Act 1994 (1994 No 159): section 2(7)

Child Support Amendment Act 1994 (1994 No 74)

Child Support Amendment Act 1993 (1993 No 15)

Child Support Act 1991 (1991 No 142): Schedule 1 clause 8(4)

Public Finance Act 1989 (1989 No 44): section 65R(3)

Family Courts Act 1980 (1980 No 161): section 17A(c)

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