

# **Child Support Amendment Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

This Bill amends the Child Support Act 1991 (the **Act**) to reform the child support scheme. Introduced in 1992, the New Zealand child support scheme helps to provide financial support for over 210 000 children. Although many parents reach private agreement on their financial contributions and care arrangements, many cannot. The scheme therefore provides a back-stop for those parents who cannot mutually agree on their relative financial contributions to support their children and also applies when the receiving parent receives a State-provided benefit. In addition, parents who reach private agreements, and who are not within the scheme, may use the scheme's formula to determine their payments.

### *Context*

While the current child support scheme provides a relatively straightforward way of calculating child support liability for the majority of parents, there are concerns that the scheme is now, in many cases, out of date. The primary assumption under the current child support scheme is that the paying parent is the sole income earner and that the receiving parent is the main care provider. However, patterns of parenting have changed since the introduction of the scheme, and it is now more common for both parents to be actively involved in rais-

ing their children. Since the scheme's introduction, there has also been greater participation in the workforce by both parents, meaning that the principal carers of children are now more likely to be in paid work.

More specifically, some liable parents are concerned that the scheme does not take into account their particular circumstances. For example, parents may share the care and costs of their children, but have arrangements that do not qualify as shared care for the purposes of the current child support formula. Equally, receiving parents are concerned about the non-payment of child support on the part of some paying parents, or the instability of payments. Some consider current payments to be insufficient to meet the costs of sharing their children and do not feel that they accurately reflect the true expenditure involved in raising children in New Zealand. The amendments in the Bill aim to reduce these concerns.

### *Major reforms*

The changes provide for a fairer and more transparent assessment calculation for child support payments that takes a wider range of individual circumstances and capacities to pay into account. The Bill also includes changes to the rules relating to the payment of child support, the imposition of penalties, and the writing-off of penalties. Broadly speaking, the changes fall into 3 categories, as follows:

- a new child support calculation formula;
- secondary changes to update the child support scheme more generally;
- amendments to the payment, penalty, and debt rules for child support.

### **Child support formula**

The main change to the child support scheme is the introduction of a comprehensive new child support formula. The new formula will provide a more equitable system of financial support in a variety of circumstances. In particular, it will better reflect many of the social and legal changes that have occurred since the introduction of the current scheme, such as the greater emphasis placed on separated parents sharing the care of, and financial responsibility for, their chil-

dren. This in turn will increase incentives for parents to meet their child support obligations.

The new formula bases child support payments on—

- a wider recognition of shared care; and
- the income of both parents; and
- the estimated average expenditures for raising children in New Zealand.

#### *Lower levels of shared care*

To deal with concerns about insufficient recognition of regular shared care of children and the costs associated with that care, the revised formula will accommodate lower levels of shared care by way of tiered thresholds, commencing with 28% of the ongoing daily care provided. The current formula recognises shared care only if it amounts to at least 40% of nights.

#### *Total income of both parents*

To deal with concerns about the capacity to pay, both parents' income (less a living allowance for each parent) will be included in the formula, with the costs of raising children being apportioned according to each parent's share of total net income. When a parent has other dependent children or is paying child support for children in other relationships, the parent's income will be reduced for the assumed expenditure on those children, based on the same method of calculation as for other children, before the parent's child support contribution is calculated.

#### *Expenditures for raising children*

The formula will use a new scale of costs (expressed as income percentages) that reflects more up-to-date information on the expenditure involved in raising children (after allowing for likely tax credits). These percentages vary with the number of children, the age of the children (the percentage being higher for children over 12 years), and the total income of the parents. As income rises, the percentages progressively decline to reflect that the proportion of income spent on children declines. Given that the additional expenditure becomes increasingly discretionary as income rises, the

new formula will, as currently, also include a cap on the amount of child support payable.

The net effect of these changes is that the costs will be apportioned between the parents according to the relative difference between their respective incomes as adjusted by their share of each child's care where that care is at least 28%.

Non-parent carers may be eligible to receive a proportion of any child support payments if they provide at least 28% of the ongoing daily care of the child.

### **Secondary changes to update child support scheme**

The Bill also includes amendments which affect the operation of the child support formula and scheme more generally. The amendments—

- introduce a Commissioner's discretion to make it easier for significant daytime care to be recognised for shared care purposes in addition to the number of nights; and
- allow the Inland Revenue Department to rely on parenting orders and agreements when establishing care levels; and
- more closely align the definition of income for child support purposes with the broader definition of "family scheme income" for Working for Families purposes; and
- introduce a Commissioner's discretion to allow, in certain circumstances, various prescribed payments to be recognised for child support payment purposes; and
- recognise re-establishment costs, following a separation, as a ground for administrative review in certain circumstances; and
- reduce the qualifying age of children subject to the child support scheme from under 19 to under 18, unless they are 18 and enrolled at a registered school.

### **Changes to payment, penalties, and write-off rules**

The rules relating to payment, penalties, and write-off play an important role in encouraging parents to meet their child support obligations on time. A system that is overly penal and inflexible can perversely lead to very high debt levels that discourage parents from contacting Inland Revenue and arranging payment. The changes in the Bill are

aimed at better encouraging and facilitating parents to make timely payments of child support. The Bill—

- allows for compulsory deductions of child support from the employment income of paying parents; and
- introduces a 2-stage initial penalty, with the current full 10% only being charged if the debt remains unpaid after 7 days; and
- reduces the incremental monthly penalty from 2% to 1% after a year of non-compliance, complemented by intensive case management by Inland Revenue; and
- relaxes the circumstances in which penalties can be written off, including when a paying parent enters into an instalment arrangement or is in serious hardship, where debt recovery is a demonstrably inefficient use of Inland Revenue's resources, or when only a low level of penalty debt is outstanding; and
- allows Inland Revenue to write off assessed debt owed to the Crown in relation to a receiving carer who is a beneficiary on serious hardship grounds.

#### *Application dates*

The amendments in the Bill apply in 2 phases. The new child support formula will apply for assessment periods on and after **1 April 2013**. All other changes to the child support scheme will be effective on and after **1 April 2014**.

#### **Regulatory impact statement**

The Inland Revenue Department produced a regulatory impact statement on 26 July 2011 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact statement can be found at—

- <http://taxpolicy.ird.govt.nz/publications/type/ris>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

#### **Clause by clause analysis**

*Clause 1* is the Title clause.

*Clause 2* relates to commencement. All of the Bill comes into force on **1 April 2013** except *Part 2*, which comes into force on **1 April 2014**.

*Clause 3* identifies the principal Act amended; the Child Support Act 1991. A reference in this analysis to a provision is, unless the context otherwise requires, a reference to a provision of that Act.

## Part 1

### Formula assessment of child support

*Clause 4* repeals the Long Title, as a tidy-up measure. Current drafting practice does not require Long Titles, and in this case the wording of it is now out of date. Further, the Long Title no longer serves a useful purpose, given that the objects of the Act are set out in section 4.

*Clause 5* amends section 2, which is the definition section. Many terms currently used in relation to the formula assessment of child support will no longer be used. These terms include eligible custodian, principal provider of ongoing care, shared custody child, and substantially equal sharing of ongoing daily care. The definitions of these terms are therefore repealed.

Some new terms will be used in the new formula assessment scheme and are included in the definition section. These include the following:

- care cost percentage (which relates to the costs associated with the proportion of ongoing daily care that a person provides to a qualifying child):
- care order or agreement (which is a parenting order or other agreement concerning the proportion of care provided to a child):
- carer (which refers to a parent or non-parent who provides ongoing daily care to a child, other than on a commercial basis):
- income percentage (which is a parent's proportion of the combined child support income amounts of all parents of a child):
- receiving carer (which refers to a carer in respect of whom child support payments are payable). Note that a receiving carer does not receive child support payments directly. Under Part 9 (at present, and unchanged by this Bill), child support

payments are paid to the Crown, and are then either passed on to the receiving carer or, in the case of a receiving carer who is a beneficiary, retained to offset the cost to the Crown of providing social security benefits to the carer.

The expression “ongoing daily care” of a child, which is used in the Act at present, is retained without definition. Its meaning is not intended to change merely as a result of introducing a new formula assessment scheme.

*Clause 6* amends section 4, which sets out the Act’s objects. The Bill does not substantively change the Act’s objects as currently described, but adapts them to reflect the new formula assessment scheme implemented by the Bill.

*Clause 7* inserts a *new section 4A*. This gives an overview of liability for child support under a formula assessment, which is determined under Part 1, and how the amount of liability is assessed, as determined under Part 2. The section is by way of explanation only and has no direct legal effect.

#### *Amendments to Part 1 (liability to pay)*

*Clause 8* amends section 5, which identifies which children are qualifying children—in other words, the children for whom child support under a formula assessment may be payable. Currently, children under the age of 19 (and who meet the other elements of the definition) are qualifying children. *Clause 8* reduces the relevant age. Children who are under the age of 18 can be qualifying children, or children aged 18, but only if they are also enrolled at a registered school. This change will not be brought into effect until 1 year after the rest of the new scheme comes into operation, and the amendment reflects this.

*Clause 9* substitutes *new sections 7B to 19*. These sections deal with applications for formula assessments of child support and the determination of who is liable to pay child support.

*New section 7B* is a new provision. It provides that the Commissioner may assume that a qualifying child has 2 parents. However, if the Commissioner believes on reasonable grounds that that assumption is not correct, he or she must apply the Act’s provisions, with any necessary modifications, to the true situation. (A child may have more than 2 parents if, for example, the mother of the child has re-

married and her husband becomes a step-father of the child by virtue of a declaration under section 99—*see* the definition of parent in section 7.)

*New section 8* sets out who can apply for a formula assessment of child support. At present, only the sole or principal provider of ongoing daily care of a qualifying child may apply. Under *new section 8*, this is expanded to refer to any carer of the child (who may be a parent or a non-parent) who is not living with a parent of the child in a marriage, civil union, or de facto relationship. The current provision in section 8(3), regarding applications for child support in relation to children in respect of whom payments are being made under section 363 of the Children, Young Persons, and Their Families Act 1989, is repeated in the new section.

*New section 9* maintains the current requirement in section 9 for social security beneficiaries to apply for a formula assessment of child support from a liable parent.

*New section 10* provides that an application for formula assessment must be in an approved form, and be verified as required by that form. Under the current scheme, if a “properly complete” application is accepted by the Commissioner, liability arises upon that acceptance. The form and content of the application (as set out currently in section 14) are therefore critically important. Under the new scheme, providing a “properly completed” application simply initiates the process for assessing liability to pay child support. It continues, however, to also mark the day on which any assessed liability begins (*see new section 19*).

*New section 11* carries forward section 15, which is a procedural section describing the effect of making an application in relation to 2 or more children.

*New section 12* carries forward the effect of section 16, which provides for what happens when child support ceases to be payable in respect of a social security beneficiary under a voluntary agreement. The section ensures that if liability under a formula assessment is to replace the liability under a voluntary agreement, the liability arises immediately after liability under the voluntary agreement ceases.

*New section 13* provides that the Commissioner must notify all parties of the receipt of an application for formula assessment that affects them.



*New sections 14 and 15* relate to establishing the proportion of ongoing daily care that each carer of a child provides to the child. A person who provides at least 28% of ongoing daily care (which equates to 2 nights per week, on average) is entitled under *new section 16* to a care cost percentage in relation to the child. Care cost percentages relate, but do not directly equate, to the proportion of care provided—see *new Schedule 1*.

*New section 14* provides that the Commissioner must establish the proportion of ongoing daily care that each parent and non-parent carer provides to a qualifying child. It also provides that if 2 or more people who live together provide that care, only 1 person may be treated as the carer (with the care provided by both people being treated as care provided by that person), and if one of them is the parent, that person must be treated as the carer.

*New section 15* identifies how the Commissioner establishes the proportions of ongoing daily care provided. It provides—

- that the Commissioner can rely on the content of care orders or agreements relating to the child. This is a new provision:
- that the default position is that the proportion of nights that a child spends with a carer equates to the proportion of ongoing daily care that the person provides to the child. This reflects current section 13, which is about when persons share the care of a child:
- that a carer may challenge the default position by providing evidence that a care order or agreement should not be relied on, or that the number of nights should not be taken to equate to the proportion of care provided:
- that, if there is no care order or agreement or if the Commissioner is satisfied on the evidence provided that the number of nights should not be taken to equate with the proportion of care, then the Commissioner may determine the proportion of care on the basis set out in *new section 15(5)*.

*New section 15(5)* sets out the factors for determining proportions of care in the same terms as are currently in section 12(b).

*New section 16* requires the Commissioner to determine, on the basis of the proportions of care already established, each carer's care cost percentage. This is done by reference to the table in *new Schedule 1*. A proportion of care that is less than 28% results in a care cost

percentage of 0%. A proportion of care of 72% or more results in a care cost percentage of 100%. Proportions of care between 28% and 72% have different care cost percentages attributable to them.

*New section 17* provides for the Commissioner to identify the liable parents and receiving carers of qualifying children. This requires that the care cost percentages of every carer, and the income percentage of every parent, be determined. The determination of income percentages is done under Part 2. A parent whose income percentage exceeds their care cost percentage will be a liable parent. A parent whose income percentage is less than their care cost percentage will be a receiving carer. A non-parent carer who provides at least 28% of ongoing daily care, and therefore has a care cost percentage, will also be a receiving carer. (The income of non-parent carers is irrelevant and therefore they have no income percentage.)

*New section 18* maintains the effect of section 18(b) and (c) in describing the effect of being a liable parent (which is that the person is liable to pay child support in accordance with a formula assessment) and a receiving carer (which is that child support payments are made in respect of the person).

*New section 19* maintains the effect of sections 18 to 20, about when liability to pay child support begins, modified for consistency with the new formula assessment scheme.

*Clause 10* substitutes a *new section 25*. This maintains the current approach to the ending of liability to pay child support, but updates the section for consistency with the new formula assessment scheme.

#### *Amendments to Part 2 (assessment of amounts)*

*Clause 11* substitutes *new sections 28A to 36D*, which replace sections in Part 2 about how to determine the quantum of child support liability under a formula assessment.

*New section 28A* replaces what is currently section 24. It states the basic obligation of the Commissioner to make assessments relating to formula assessments. A key difference between the current scheme and the new scheme is that whereas the current scheme requires only an assessment of the total liability of a liable parent in a child support year, under the new scheme the assessment will include both a total assessment (referred to, as now, as the “annual rate” of child support payable) and an assessment of the “annual amount” of child support

payable in respect of each qualifying child. A per-child assessment is necessary in order to determine the income percentage that relates to each individual child. This in turn is necessary because the comparison between the income percentage and the care cost percentage relating to a child determines who is the liable parent in relation to the child.

*New section 29* replaces section 29 by setting out a new formula for assessing the annual amount of child support payable in respect of an individual child. The amount is determined by subtracting the liable parent's care cost percentage from their income percentage (which must result in a positive percentage, because otherwise they would not be a liable parent) and multiplying the result by the appropriate amount calculated in accordance with the applicable child expenditure table (*see new section 36D*).

However, for liable parents that have more than 1 child support group (*see new section 36(2)*), this formula may result in an assessment of child support liability that is higher than would arise if all the parent's qualifying children were living in a single household, rather than in multiple households. For these parents, an alternative formula, called the multi-group cap, is provided. This provides that their child support liability for each child is 100% minus their care cost percentage for the child, multiplied by the multi-group cost of the child. That multi-group cost is determined under *new section 36(5)*.

*New section 30* relates to the annual rate of child support liability of a liable parent. At present, there is a minimum annual rate that a liable parent must pay, regardless of the number of children to which the liability relates. The amount is set out in *new section 72(1)(a)*. In order to retain this concept, *new section 30* provides that, if the sum of the amounts of child support payable in respect of each of a liable parent's children is less than the minimum amount, the parent must pay the minimum amount.

*New section 31* describes what a person's income percentage is in relation to a particular child. It is their child support income amount (determined under *new section 32*) divided by the sum of the child support income amounts of all parents of the child.

*New section 32* sets out how a person's child support income amount for a child is determined. The amount is the person's adjusted taxable income minus each of the following:

- the person's living allowance:
- any dependent child allowances:
- any multi-group allowance applicable to the child.

*New section 33* sets out how a person's adjusted taxable income is determined. At present, only a person's taxable income is taken into account. This income does not include, for example, income received under certain trusts, and does not take into account certain losses of income.

The adjustments referred to in the term "adjusted taxable income" are adjustments that will take into account such income and losses, and will in fact closely align the assessment of income with the assessment described as family scheme income for Working for Families purposes, as set out in subpart MB of the Income Tax Act 2007. There are 3 variations from family scheme income, as set out in *new section 33(1)*. This change about how adjustable taxable income is determined will not be brought into effect until 1 year after the rest of the new formula assessment scheme comes into force (*see new section 33(2)*).

*New section 34* sets out the living allowance that applies to every assessment of a person's child support income amount. At present, there is a range of different living allowances. Under the new scheme, the allowance for most people is the amount determined by reference to the domestic purposes benefit payable to a person with 1 or more dependent children as set out in Schedule 16 of the Social Security Act 1964. However, the living allowance for someone in receipt of a domestic purposes benefit granted under section 27G of the Social Security Act 1964 (because the person is caring at home for someone sick or infirm) is the equivalent of the benefit payable to such a person who has 1 or more dependent children. The Commissioner must publicise the actual amounts on an Internet site maintained by the Inland Revenue Department.

*New section 35* sets out the dependent child allowance. A parent is entitled to this in relation to each child for which he or she is a liable parent, in respect of each other dependent child (**child D**) of which he or she is a parent. The dependent child allowance is the parent's

care cost percentage of child D multiplied by the appropriate amount taken from the child expenditure table, based on the adjusted taxable income, less the living allowance, of that parent alone.

*New section 36* sets out the multi-group allowance. This allowance applies to a parent who has more than 1 child support group. A child support group is all those children of the parent who share the same other parent. A parent's multi-group allowance in relation to one child (**child C**) is the sum of the multi-group costs of all other children who are not in the same child support group as child C. The multi-group cost of a child is worked out according to a formula involving the appropriate amount from the child expenditure table for that child, using the adjusted taxable income of the parent (after deducting the living allowance and any dependent child allowances) and assuming that all the children from the various child support groups are living together. The result from the child expenditure table is then divided by the total number of children of the parent in all his or her child support groups. The purpose and effect of the multi-group allowance is to adjust child support payments to ensure equity between the different child support groups that a liable parent may be paying child support for. It has a similar effect as the dependent child allowance, in that it reduces a parent's child support income amount in recognition of the cost of their children in other child support groups.

*New section 36A* provides that, when there is only 1 receiving carer, the amount of child support payable in respect of that carer is the same as the amount payable by the relevant liable parent.

*New section 36B* sets out the formula for allocating child support payments when there is 1 or more receiving carers of a child, and none of them are a parent of the child.

*New section 36C* sets out the formula for allocating child support payments when there is more than 1 receiving carer of a child, and at least 1 of them is a parent of the child.

*New section 36D* is about child expenditure tables. It requires the Commissioner, before the start of each child support year, to approve a child expenditure table that will apply for that child support year. A child expenditure table is based on the expenditure on children table in *new Schedule 2*, as set out in *Schedule 1*. That table describes the proportion of the average weekly earnings (AWE) that parents in New Zealand expend on children. The expenditure on children

varies according to the number of children in a household, the child support income of the parent, and which age group the children fall into, either under 13, or 13 and over.

The table expresses the annual expenditure on children as percentages of child support income amounts. (For some purposes, the child support income amount of a single parent is relevant, while in others it is the combined child support incomes of all parents that is relevant.) The table is arranged in bands relating to proportions of AWE, ranging from 0–0.5 of AWE to 2–2.5 of AWE.

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.

For any additional dollar of child support income in a particular band, the additional expenditure on a child is the relevant percentage in that band, having regard to the number of children in the child support group. For example, if there is 1 child, aged 8, in a group and the child support income falls into the 0–0.5 times AWE band, the relevant percentage is 17%. This means that for every dollar of child support income there is 0.17 cents of expenditure on the child.

Child support income may extend over several AWE bands. The higher the income, the more bands are covered. In this case, expenditure accumulates across the columns.

However, for each successive band, the additional expenditure declines. For example, the expenditure percentage in relation to a single child in the 0.5–1 times AWE band is 15%. In the 2–2.5 times AWE band it is 7%. When child support income amounts exceed 2.5 times AWE, there is no additional expenditure on the child for any child support income that exceeds 2.5 times AWE.

*Clause 12* amends section 41, which currently sets out the effect of a liable parent electing, under section 40, to estimate his or her income as lower than it would otherwise be determined to be. Under the new formula assessment scheme, the election will be available to any parent whose income is assessed for formula assessment purposes. Section 41 needs to be amended to reflect the greater range of possible effects of an election. This is achieved by updating the existing formula and providing a new one. The other sections relating to an election (section 40 as well as sections 42 to 45) are consequentially amended as set out in *Schedule 2* to reflect this, but it is likely

that further technical changes will be needed to deal with the complications that arise from the fact that any parent, not just a liable parent, will be able to make an election under section 40.

*Amendments to Part 5 (procedures)*

*Clause 13* amends section 72. This section sets out the minimum rates of child support and domestic maintenance payable by a liable person. The amendment updates the section for consistency with the new formula assessment scheme, and resets the starting figure on which minimum payments for child assessment under a formula assessment are set. The current section is based on a starting figure set in 2003, and is adjusted by the inflation figure annually. The new starting figure is the 2011 amount of \$848, which will continue to be adjusted annually by the inflation percentage.

*Clause 14* substitutes a *new section 82*. Section 82 currently obliges liable parents under a formula assessment to advise the Commissioner of certain changes affecting their living circumstances. The section is amended to extend the obligation to all parents, and to non-parent carers as regards changes affecting their care cost percentage. It adjusts the wording to reflect the new living allowance, dependent child allowance, and multi-group allowance.

*Clause 15* substitutes *new sections 88, 88A, and 89*. Section 88 currently sets out what the Commissioner must notify to persons who are liable to pay child support or domestic maintenance. Section 89 then sets out the notification requirements in respect of payees of child support and domestic maintenance.

*New section 88* requires the Commissioner to send assessment notices to parents and receiving carers in relation to child support under a formula assessment. It sets out some general requirements relating to notices of assessment, including a requirement to alert recipients to their rights to object to aspects of an assessment. It also provides that the Commissioner may omit certain information if including that information would prejudice the safety of any parent, carer, or child.

*New section 88A* sets out the minimum specific information that must be included in notices of assessment to liable parents, receiving carers who are parents, and non-parent carers respectively.

*New section 89* provides for notification by the Commissioner to payers and payees of domestic maintenance and of child support

under voluntary agreements and court orders. Since both parties have the same objection rights, the notification requirements for each are the same.

### *Amendments to Part 6 (objections)*

*Clause 16* amends section 90, which identifies the appealable decisions of the Commissioner that any person affected by the decision may object to. One amendment repeals the existing references to acceptance or rejection of an application for a formula assessment of child support, because that concept is no longer applicable under the new formula assessment scheme. Instead, the section describes 2 different decisions that are appealable decisions. These are a decision by the Commissioner to make, or refuse to make, a formula assessment (on the basis, for instance, that the application does not relate to a qualifying child), and a decision establishing the proportion of ongoing daily care provided by a carer.

The other amendment is to make it clear that penalties imposed under section 45 and *new section 134* are imposed by operation of law (and not as a matter of discretion).

*Clause 17* amends section 91, which sets out the child support and other assessments against which objections may be made. The amendment makes 2 changes. The first is that it adjusts the wording relating to assessments under a formula assessment, to reflect the new scheme. The reference to “financial support” includes child support payable under a formula assessment, as well as child support payable under a voluntary agreement or court order, and domestic maintenance. The second change is that any person affected by an assessment, not just a person who is assessed, may object under this section.

*Clause 18* amends section 92, which sets out requirements relating to objections under this Part. It adds an important requirement relating to objections about a decision by the Commissioner on the proportion of care that a person provides. An objection may only be made on the basis of information before the Commissioner at the time the decision was made.



*Amendments to Part 6B (Commissioner-initiated administrative reviews)*

Part 6B allows the Commissioner, on his or her own initiative, to depart from some or all aspects of a formula assessment following an administrative review of a liable parent. Currently, a qualifying custodian can elect to become a party to the proceedings. Under the new formula assessment scheme, the Commissioner may wish to review the financial resources of any parent involved in a formula assessment. For that reason, the references in this Part to a liable parent are being changed to a reference to a subject parent, and the references to the qualifying custodian are being changed to a reference to any receiving carer. The substantive change is made by way of the amendment to section 96Q in *clause 19*; the other changes are consequential and are set out in *Schedule 2*.

*Clause 19* amends section 96Q by identifying the parties to proceedings under Part 6B as being the parent who is the subject of the review (the **subject parent**) and any receiving carer who elects, under section 96Y, to become a party.

*Amendment to Part 7 (appeals and departure orders)*

*Clause 20* repeals sections 100 and 101. These sections currently provide a special right of appeal to the Family Court, on narrow grounds, against a decision of the Commissioner to disallow an objection to a decision to accept, or to refuse, an application for formula assessment of child support. Sections 102 and 103 then provide a general right of appeal to a Family Court in other cases where the Commissioner has disallowed an objection under section 90 or 91 respectively.

With the new formula assessment scheme and the changes made to sections 90 and 91, there are many aspects of a decision relating to a formula assessment that might be objected to. It is therefore simpler to provide for all appeals relating to objections against a formula assessment to be on the more open-ended basis provided for in sections 102 and 103.

*Clause 21* amends section 106(1), which identifies the orders that a court may make following an application under section 104 seeking a departure from the provisions of the Act relating to a formula assessment. It allows the court to make an order varying any component, or

the application of any component, of an assessment of child support under a formula assessment, and repeals an existing, very specific, order available under section 106.

*Amendment to Part 9 (payment)*

*Clause 22* inserts a *new section 152B*. It replicates the effect of section 34, which is to allow the Commissioner to offset payments of child support under a formula assessment to 1 parent from any payments payable by the other parent.

*New Schedules 1 and 2 inserted*

*Clause 23* inserts 2 new schedules into the Act.

*New Schedule 1* contains the new table setting out the care cost percentages. This table is used to convert a proportion of care (established by the Commissioner under *new section 14*) into a care cost percentage (used to determine liability to pay, and the assessment of the amount of, child support).

*New Schedule 2* contains the child expenditure table, which is the model for the annual child expenditure tables that the Commissioner must approve under *new section 36C*. It is explained in more detail above.

*Consequential amendments*

*Clause 24* amends the Act as set out in *Schedule 2*. These amendments are consequential on the amendments made by the rest of *Part 1*.

*Clause 25* consequentially amends section 16(6) of the Adoption Act 1955.

## **Part 2**

### **Departures from formula assessment, collection, penalties, and relief**

*Amendments to Part 7 (grounds for departure  
from formula assessment)*

*Clause 26* amends section 105(2), which sets out the grounds for departure if a receiving carer or liable parent asks the Commissioner to make a determination that the Act's provisions on the formula as-

assessment of child support be departed from in relation to a child. The departure grounds in section 105(2) also apply if a receiving carer or liable parent applies under section 104 to a Family Court for an order under section 106 that the Act's provisions on the formula assessment of child support be departed from in relation to a child.

One amendment adjusts the ground for departure in section 105(2)(b)(i). That ground relates to the costs of maintaining the child being significantly affected because of high costs incurred by a liable parent or a receiving carer in enabling that liable parent to have access (of any kind and for any purpose) to the child. The adjustments broaden the departure ground so that it covers costs incurred by any parent or receiving carer in enabling any parent to have access (of any kind and for any purpose) to the child. *New section 105(3)* is related, and prevents costs incurred in enabling a parent access (of any kind and for any purpose) to the child from being taken to be high unless the total of those costs during a child support year is more than 5% of the adjusted taxable income for the year of the person incurring the costs.

The other amendments add a *new section 105(2)(d)* that sets out a new ground for departure. The new ground is that, at any time within 3 years starting on the date on which the child's parents ceased to live together in a marriage, civil union, or de facto relationship, the application to the child of the Act's provisions on formula assessment would result in an unjust and inequitable determination of the level of financial support to be provided by the liable parent for the child because a re-establishment costs situation exists under *new section 105(7)*. A re-establishment costs situation exists under *new section 105(7)* if, and only if,—

- the adjusted taxable income of a parent of the child for the child support year concerned includes a proportion that is—
  - no more than 30% of that income; and
  - income from work done by that parent and that, in quantity or nature or both, is additional to work that he or she did before the child's parents ceased to live together in a marriage, civil union, or de facto relationship; and
- some or all of that proportion of that income is used, or needs to be used, by a parent of the child in that child support year to meet, wholly or partly, actual and reasonable costs incurred to

re-establish himself or herself, and any child or other person that he or she has a duty to maintain, after the child's parents ceased to live together in a marriage, civil union, or de facto relationship.

*New section 105(8)* relates to computing, for purposes related to *new section 105(2)(d)*, the 3-year period after the child's parents ceased to live together in a marriage, civil union, or de facto relationship. It permits the court to exclude a period or periods of resumed cohabitation with, or each with, the sole or main motive of reconciliation if the period does not exceed, or the periods in aggregate do not exceed, 3 months.

#### *Amendments to Part 8 (automatic deduction)*

*Clause 27* repeals sections 129 to 131 and the heading before them and substitutes a new heading and *new sections 129 to 131A*.

Sections 129 to 131 relate to the method of collection of financial support. Under those sections, a person liable to pay financial support is entitled to choose how the money so payable is to be paid to the Commissioner unless—

- the person makes default in a payment of financial support, in which case that payment, and any further payment of financial support required to be made by the person, whether in that child support year or in any future child support year, is payable, unless the Commissioner considers it to be inappropriate, by way of automatic deduction under Part 10; or
- the person is in receipt of a specified social security benefit, in which case the financial support is payable by way of automatic deduction under Part 10 from an instalment of a benefit to which the person is or may become entitled.

*New sections 129 to 131*, by contrast, ensure that—

- financial support that an automatic deduction person (as defined in *new section 129(2) to (5)*) is required to pay on or after **1 April 2014** must, under *new section 129(1)*, be paid only by way of automatic deduction under Part 10 except insofar as the Commissioner considers that method of payment inappropriate;
- financial support that a person is required to pay on or after **1 April 2014** must, under *new section 130*, be paid by a

payment method or methods (other than automatic deduction under Part 10) acceptable to the Commissioner to the extent that either or both of the following apply:

- the person is not an automatic deduction person (as defined in *new section 129(2) to (5)*);
- the Commissioner under *new section 129(1)* considers payment of financial support referred to in *new section 129(1)* by way of automatic deduction under Part 10 to be inappropriate:
- the other acceptable payment method or methods may be, for some of the child support for a child in respect of a child support year, payment by way of recognition under *new section 131* of 1 or more qualifying payments for the child's direct benefit made in that year (a qualifying payment for the child's direct benefit has the meaning given by *new section 130(3)*).

An automatic deduction person, as defined in *new section 129(2) to (5)*, means a person who is 1 or more of the following (regardless of whether the person's liability to pay that financial support arises before, on, or after **1 April 2014**):

- a PAYE or ACC income recipient, but only if or to the extent that he or she is not a person who is in receipt of a specified social security benefit or a specified grant under the Student Allowances Regulations 1998 (regardless of whether the person defaults or has defaulted in a payment or payments of that financial support):
- a person who, on or after **1 April 2014**, defaults in a payment of financial support under the Act:
- a person who is in receipt of a specified social security benefit (regardless of whether the person defaults or has defaulted in a payment or payments of that financial support):
- a person who is in receipt of a basic grant or an independent circumstances grant under the Student Allowances Regulations 1998 (regardless of whether the person defaults or has defaulted in a payment or payments of that financial support):

The Commissioner may facilitate the operation of *new sections 129 and 130* on and after **1 April 2014** (in a manner consistent with section 11 of the Interpretation Act 1999) by on and after **1 April 2013**

and before **1 April 2014** giving deduction notices under section 154 that have effect only on and after **1 April 2014**.

*New section 131* provides for a new payment method for some of the child support for a child that the Act requires the liable person to pay in a child support year. The new payment method is to be available only to the extent that its use is under *new section 130* acceptable to the Commissioner. It is recognition of 1 or more qualifying payments for the child's direct benefit made during that year. A qualifying payment for the child's direct benefit has the meaning given by *new section 130(3)*. The Commissioner may under *new section 131* recognise 1 or more payments if, and only if,—

- the liable parent who is to make or has made the payment is not providing in that year a proportion of ongoing daily care for the child, established under *new section 14* (substituted by *clause 9*), that exceeds 28%; and
- no receiving carer of the child is in that year a sole parent (as defined in section 3(1) of the Social Security Act 1964) who is in receipt of a social security benefit (as defined in section 2(1));
- the child's parents have, before the start of that year, entered into, and given the Commissioner, a written agreement to the effect that they intend no less than 10%, and no more than 30%, of the child support for the child that the Act requires the liable parent to pay in that year to be paid by way of recognition of payments under *new section 131*; and
- no parent of the child had when entering into the written agreement child support debt (which, under *new section 134A(b)*, may be debt that is or includes related penalties) that remained unpaid after the time it became due and payable; and
- the Commissioner is satisfied, on the basis of information available to the Commissioner, that—
  - each of the payments to be recognised is a qualifying payment for the child's direct benefit made in that year; and
  - recognition of the payment or payments is consistent with no less than 10%, and no more than 30%, of the child support for the child that the Act requires the liable

parent to pay in that year being paid by way of recognition of payments under *new section 131*.

After being asked to recognise or revoke provisional recognition of a payment under *new section 131 or 131A*, the Commissioner may require a parent or carer of the child to produce any evidence that the Commissioner, in his or her discretion, considers appropriate to enable the Commissioner to decide whether to do so. The Commissioner's administrative decisions under *new sections 131 and 131A* are expressly discretionary, and so not ones with respect to which Part 6 confers a right of objection (together with a related right to appeal under section 102 to a Family Court against a decision to disallow an objection).

*New section 131A* enables the Commissioner to recognise provisionally an anticipated payment that, if made as anticipated, would comply fully with *new section 131(1)*. But provisional recognition becomes recognition under *new section 131(1)* of that payment once made only if and after *new section 131(1)* is complied with fully. The Commissioner may revoke provisional recognition of an anticipated payment if satisfied that it has not been made as anticipated. On revoking provisional recognition of an anticipated payment, the Commissioner must as soon as practicable decide, and advise the liable person and the receiving carer, how the child support that was to be paid by way of recognition of the payment is instead to be paid under *new section 130* by some other method or methods.

#### *Amendments to Part 8 (penalties)*

*Clause 28* repeals section 134 (on penalties for late payment of financial support debts) and substitutes—

- *new sections 134, 134A, and 134B* (on penalties for late payment of financial support debts); and
- *new section 134C* (on how section 151(2) extends provisions on liable people's financial support debt so that those provisions also apply to receiving carers' debts arising from overpayments).

Section 134(1)(a) currently enables the Commissioner to charge and impose, at the expiry of the due date, an initial late payment penalty of the greater of—

- an amount equal to 10% of the amount of financial support remaining unpaid at the expiry of the due date:
- the amount of \$5.

Section 134(1)(b) and (c) currently enable the Commissioner to charge and impose, at the expiry of the first period of 1 month after the due date, and also at the expiry of each of the consecutive periods of 1 month that succeed that first 1-month period, incremental penalties of 2% of so much of the sum of the following as remains unpaid at that expiry:

- the amount of financial support remaining unpaid at the expiry of the due date:
- all penalties, if any, earlier imposed under section 134.

*New section 134* re-enacts section 134, for penalties imposed on or after **1 April 2014** in respect of financial support debts incurred before, on, or after **1 April 2014**, with 2 changes. One change is that the initial late payment penalty under section 134(1)(a) (which is the greater of 10% of the unpaid financial support and \$5) is replaced with—

- an initial late payment penalty under *new section 134(2)*, at the expiry of the due date, of the greater of 2% of the unpaid financial support and \$5:
- an initial late payment penalty under *new section 134(3)*, at the expiry of the seventh day after the due date, of 8% of so much of the sum of the unpaid financial support as remains unpaid at that expiry:

The other change is to the incremental penalties under section 134(1)(a) and (b), at the expiry of the first period of 1 month after the due date, and also at the expiry of each of the consecutive periods of 1 month that succeed that first 1-month period. These incremental penalties are adjusted so that, after 12 of those 1-month periods, the penalty at the expiry of all later consecutive months (under *new section 134(4), (5), and (6)*) reduces from 2% to 1% of so much of the sum of following as remains unpaid at that expiry:

- the amount of financial support remaining unpaid at the expiry of the due date:



- all penalties, if any, earlier imposed under section 134.

*New section 134A*, which re-enacts section 134(2), relates to the status of penalties under *new section 134*.

*New section 134B* is a savings provision. It preserves expressly penalties imposed in respect of the same debt under current section 134 before it is repealed on **1 April 2014**.

*New section 134C* makes it clear that the Act's provisions on a liable person's financial support debt (including, without limitation, *new section 134* and sections 135 to 135N) also apply, in accordance with section 151(2), to payees' debts arising from overpayments.

#### *Amendments to Part 8 (relief from penalties)*

*Clause 29* makes to section 135 amendments consequential on the substitution of *new section 134* by *clause 28*.

#### *Amendment to Part 8 (payment agreements)*

*Clause 30* inserts a new heading and *new section 135AA*. *New section 135AA(1)* states a sufficient reason for the Commissioner to decline to enter into a payment agreement with a liable person. The reason is solely that the Commissioner is satisfied on the basis of information available to the Commissioner of both of the following matters:

- that the liable person has not complied with 1 or more earlier payment agreements; and
- that no reasonable cause existed for the liable person's non-compliance with all or any of those agreements.

The new section does not prevent the Commissioner from—

- declining to enter into the agreement for any other reason; or
- ceasing, because of further information available to the Commissioner, to be satisfied of either or both of those matters.

The Commissioner's administrative decision whether to enter into a payment agreement is expressly discretionary, and so not one with respect to which Part 6 confers a right of objection (together with a related right to appeal under section 102 to a Family Court against a decision to disallow an objection).

*Amendments to Part 8 (discretionary relief from penalties)*

*Clause 31* amends section 135A, on the application of provisions on discretionary relief in respect of penalties, as a consequence of the insertion of *new section 135GA* by *clause 34*.

*Clause 32* inserts a *new section 135FA*. *New section 135FA* gives the Commissioner a discretion to give relief from (write off in whole or in part, or if paid refund in whole or in part, or both) incremental penalties of a liable person that were unpaid when a payment agreement is entered into on or after **1 April 2014**. The discretion is exercisable if the Commissioner is satisfied that recovery of those incremental penalties would do either or both of the following:

- place the liable person in serious hardship (as defined in section 135G(3));
- involve an inefficient use of the Commissioner's resources.

*Clause 33* amends section 135G, which enables the Commissioner, if specified preconditions are met, to grant relief to a liable person from the payment of incremental penalties. The precondition in section 135G(1)(a) requires the liable person to have paid all of the financial support debt and initial late payment penalties to which the incremental penalties relate. One amendment relaxes this precondition so that relief may be granted under section 135G even if the liable person has paid only some, and thus not all, of the financial support debt and initial late payment penalties to which the incremental penalties relate. The other amendment is consequential on the *new section 180A* inserted by *clause 41*.

*Clause 34* inserts a *new section 135GA*, which enables the Commissioner to grant discretionary relief for low-level residual penalty-only debt (initial late payment penalties or incremental penalties or both) if—

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

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

*Clause 35* repeals section 135H and substitutes *new sections 135GB and 135H*.

*New section 135GB* requires the Commissioner to give relief from an initial late payment penalty (by writing it off) if a payment arrangement is entered into or made on or after **1 April 2014**. The Commissioner's duty under *new section 135GB* to write off the initial payment penalty is, unlike the Commissioner's similar duty under section 135H and *new section 135H*, not subject to a precondition that the Commissioner be satisfied that the arrangement (payment agreement or deduction notice) has been fully complied with. The duty to write off arises if the arrangement has operated for a reasonable period and to date there has been no default, or only default to an extent, or arising from a cause, that is reasonable.

*New section 135H* re-enacts with amendments section 135H, which requires the Commissioner to give relief from an initial late payment penalty (by writing it off) in respect of a payment arrangement (payment agreement or deduction notice) if satisfied that the arrangement has been fully complied with. Some of the amendments ensure that section 135H applies only in respect of a payment arrangement entered into or made on or after 26 September 2006 but before **1 April 2014**. The rest are to ensure consistency of expression with related provisions.

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

*Clause 36* amends section 135J, which requires the Commissioner to give relief from incremental penalties (by writing them off) in respect of a payment agreement if satisfied that the agreement has been fully complied with during a review period. The amendments ensure that section 135J applies only in respect of a payment arrangement entered into or made on or after 26 September 2006 but before **1 April 2014**.

*Clause 37* amends section 135K, which requires the Commissioner to give relief from incremental penalties (by writing them off) in respect of a payment arrangement (payment agreement or deduction notice) if satisfied that the arrangement has been fully complied with during a review period. The amendments are to help to make it clear

that section 135K applies only in respect of a payment arrangement entered into or made before 26 September 2006.

*Clause 38* amends section 135M, on relief from ongoing incremental penalties if a payment agreement is in force. *New section 135M(1)* removes the precondition in section 135M(1)(c) that 1 sum or, as the case may be, every one of 2 or more instalments, is paid in full in accordance with the payment agreement. That precondition prevents all ongoing incremental penalties from being written off if any sum or instalment payable under the agreement is not paid in full in accordance with the agreement. *New section 135M(1)(c)*, by contrast, requires an incremental penalty imposed at the expiry of a 1-month period to be written off if a payment agreement is in force, and has been complied with fully, during that 1-month period. In other respects *new section 135M(1)* is not intended to change the effect of section 135M(1), but only to simplify and make clearer its wording.

*Clause 39* amends section 135N, on relief from ongoing incremental penalties if a deduction notice under section 154 is in force requiring payment of financial support, initial late payment penalties, or incremental penalties by way of deductions. *New section 135N(1)* removes the precondition in section 135N(1)(c) that the support or penalties be paid by every deduction being made in accordance with the deduction notice. That precondition prevents all ongoing incremental penalties from being written off if any deduction required under the notice is not made in accordance with the notice. *New section 135N(1)(c)*, by contrast, requires an incremental penalty imposed at the expiry of a 1-month period to be written off if a deduction notice is in force, and has been complied with fully, during that 1-month period. In other respects *new section 135N(1)* is not intended to change the effect of section 135N(1), but only to simplify and make clearer its wording.

#### *Amendment to Part 9 (payment)*

*Clause 40* amends the heading to section 148 to make a minor wording improvement.

#### *Amendment to Part 10 (automatic deductions)*

*Clause 41* amends section 154 as a consequence of the substitution of *new sections 129 and 130* by *clause 27*.

*Amendment to Part 11 (discretion to write off  
certain child support debt)*

*Clause 42* inserts a *new section 180A*, which enables the Commissioner to 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, and that is unpaid and in arrear, if—

- the receiving carer is or was a social security beneficiary (as defined in section 2(1)) at the time the child support is or was payable; and
- the Commissioner is satisfied that recovery of that amount would place the liable person in serious hardship (as defined in section 135G(3)).

The benefit component of the amount of child support, as defined in *new section 180A(2)*, means so much of that amount as is not payable to the receiving carer under section 142(1)(g).

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*Hon Peter Dunne*

## **Child Support Amendment Bill**

Government Bill

### **Contents**

		Page
1	Title	6
2	Commencement	6
3	Principal Act amended	6
	<b>Part 1</b>	
	<b>Formula assessment of child support</b>	
4	Long Title repealed	6
5	Interpretation	6
6	Objects	8
7	New section 4A inserted	8
4A	Overview of child support payable under formula assessment	8
	<i>Amendments to Part 1 (liability to pay)</i>	
8	Children who qualify for child support	9
9	New headings and sections 7B to 19 substituted	9
7B	Number of parents of child	9
	<i>Application for formula assessment</i>	
8	Who may apply for formula assessment	10
9	Social security beneficiaries must apply for formula assessment	10
10	Form of application	11
11	Multiple applications in single form	12
12	Deemed application by beneficiary	12
13	Notification by Commissioner of application	12

## Child Support Amendment Bill

---

	<i>Determining care cost percentages</i>	
	14 Commissioner to establish proportions of care	13
	15 How Commissioner establishes proportions of care	13
	16 Determining care cost percentages	14
	<i>Liable parents and receiving carers</i>	
	17 Identification of liable parents and receiving carers	15
	18 Effect of being liable parent or receiving carer	15
	<i>Beginning of liability to pay child support under formula assessment</i>	
	19 When liability to pay child support starts	15
10	New section 25 substituted	16
	25 When liability to pay child support ceases	16
	<i>Amendments to Part 2 (assessment of amounts)</i>	
11	New headings and sections 28A to 36D substituted	18
	28A Commissioner to assess child support payable under formula assessment	18
	29 Formula for assessing annual amount of child support	18
	30 Minimum annual rate of child support	19
	<i>Determining income percentages</i>	
	31 Income percentage	20
	32 Child support income amount	20
	33 Adjusted taxable income	21
	34 Living allowance	22
	35 Dependent child allowance	22
	36 Multi-group allowance	23
	<i>Amounts payable in respect of receiving carers</i>	
	36A Where parent is sole receiving carer	24
	36B Where all receiving carers are non-parents	25
	36C Where 2 or more receiving carers, with at least 1 parent	25
	<i>Expenditure on children</i>	
	36D Child expenditure tables	26
12	Effect of election	26
	<i>Amendments to Part 5 (procedures)</i>	
13	Minimum rate of child support or domestic maintenance	27



## Child Support Amendment Bill

---

14	New section 82 substituted	28
	82 Parents and receiving carers to advise Commissioner of changes	28
15	New sections 88 to 89 substituted	29
	88 Notice of assessment of formula assessment of child support	29
	88A Details in notices of assessments	30
	89 Notification by Commissioner to other payers and payees	32
	<i>Amendments to Part 6 (objections)</i>	
16	Objections to appealable decisions	33
17	Objections to assessments	33
18	Requirements in relation to objections	33
	<i>Amendment to Part 6B (Commissioner-initiated administrative reviews)</i>	
19	Commissioner may make determination under this Part	34
	<i>Amendments to Part 7 (appeals and departure orders)</i>	
20	Sections 100 and 101 repealed	34
21	Orders that may be made	34
	<i>Amendment to Part 9 (payment)</i>	
22	New section 152B inserted	34
	152B Offsetting child support payments	34
	<i>New Schedules 1 and 2 inserted</i>	
23	New Schedules 1 and 2 inserted	35
	<i>Consequential amendments</i>	
24	Consequential amendments to principal Act	35
25	Consequential amendment to Adoption Act 1955	35
	<b>Part 2</b>	
	<b>Departures from formula assessment, collection, penalties, and relief</b>	
	<i>Amendments to Part 7 (grounds for departure from formula assessment)</i>	
26	Matters as to which court must be satisfied before making order	35
	<i>Amendments to Part 8 (automatic deduction)</i>	
27	New heading and sections 129 to 131A substituted	37

## Child Support Amendment Bill

---

	<i>Financial support to be collected only by automatic deduction or other method acceptable to Commissioner</i>	
129	Financial support generally to be paid only by automatic deduction	37
130	Payments to be made by other methods if automatic deduction not required or inappropriate	38
131	Payment of child support by recognition of qualifying payments for child's direct benefit	39
131A	Provisional recognition under section 131	40
	<i>Amendments to Part 8 (penalties)</i>	
28	New sections 134 to 134C substituted	41
134	Penalties for late payment of financial support debts	41
134A	Status of penalties under section 134	42
134B	Saving for penalties imposed under section 134 before 1 April 2014	42
134C	Act's provisions on liable people's financial support debt also apply to payees' debts arising from overpayments	43
	<i>Amendments to Part 8 (relief from penalties)</i>	
29	Interpretation for purposes of sections 135A to 135O	43
	<i>Amendment to Part 8 (payment agreements)</i>	
30	New heading and section 135AA inserted	43
	<i>Sufficient reason for declining to enter into or make payment agreement</i>	
135AA	Non-compliance without reasonable cause with previous payment agreements	44
	<i>Amendments to Part 8 (discretionary relief from penalties)</i>	
31	Application of sections 135B to 135G	44
32	New section 135FA inserted	44
135FA	Discretionary relief from incremental penalties unpaid before agreement entered into on or after 1 April 2014	44
33	Discretionary relief for residual incremental penalty debt	45
34	New section 135GA inserted	45
135GA	Discretionary relief for residual penalty-only debt	45

## Child Support Amendment Bill

---

	<i>Amendment to Part 8 (mandatory relief from initial late payment penalties)</i>	
35	New sections 135GB and 135H inserted	46
	135GB Relief from initial late payment penalty if full or substantial compliance with payment arrangement entered into or made on or after 1 April 2014 and within 3-month period	46
	135H Relief from initial late payment penalty if full compliance with payment arrangement entered into or made before 1 April 2014 and within 3-month period	48
	<i>Amendments to Part 8 (mandatory relief from incremental penalties)</i>	
36	Relief from incremental penalties unpaid before agreement entered into	49
37	Relief from incremental penalties in relation to arrangements entered into or made before commencement	49
38	Relief from ongoing incremental penalties if payment agreement in force	50
39	Relief from ongoing incremental penalties if deduction notice in force	50
	<i>Amendment to Part 9 (payment)</i>	
40	Method in which payments to be made	51
	<i>Amendment to Part 10 (automatic deductions)</i>	
41	Deduction notice	51
	<i>Amendment to Part 11 (discretion to write off certain child support debt)</i>	
42	New section 180A inserted	51
	180A Commissioner may write off benefit component of child support debt if receiving carer is or was social security beneficiary and recovery would place liable person in serious hardship	51
	<b>Schedule 1</b>	52
	<b>New Schedules 1 and 2 inserted</b>	
	<b>Schedule 2</b>	55
	<b>Consequential amendments to principal Act</b>	

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

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

**2 Commencement**

- (1) This Act, except **Part 2**, comes into force on **1 April 2013**. 5  
 (2) **Part 2** comes into force on **1 April 2014**.

**3 Principal Act amended**

This Act amends the Child Support Act 1991.

**Part 1**

**Formula assessment of child support**

10

**4 Long Title repealed**

The Long Title is repealed.

**5 Interpretation**

- (1) Section 2(1) is amended by repealing the following definitions: **child support percentage**, **eligible applicant**, **eligible custodian**, **principal provider of ongoing daily care**, **properly made**, **qualifying custodian**, **relevant average weekly earnings amount**, **shared custody child**, and **substantially equal sharing of ongoing daily care**. 15
- (2) Section 2(1) is amended by inserting the following definitions in their appropriate alphabetical order: 20
- “**adjusted taxable income** has the meaning in **section 33**
- “**annual amount of child support** means the amount payable in a child support year by a liable parent in respect of a qualifying child 25
- “**annual rate of child support** means the total amount payable in a child support year by a liable parent in respect of all of his or her qualifying children
- “**care cost percentage** means the percentage of costs associated with providing a proportion of ongoing daily care to a child; and, in relation to a particular parent or carer of a child, is the percentage set out in column 2 of the table in **Sched-** 30

**ule 1** 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: 5

“(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)**)— 10

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

“(ii) that identifies the proportion of care that each parent and carer of the child will provide to the child 15

**“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 table** means, in relation to a child support year, the child expenditure table approved by the Commissioner under **section 36D** applying to that year 20

**“child support group**, in relation to a parent who has more than 1 child, means the children of that parent who all share the same other parent 25

**“income percentage** means, in relation to a parent of a qualifying child, that parent’s percentage of the combined child support income amounts of all the child’s parents, as determined under **section 31**

**“receiving carer** means a carer of a child in respect of whom child support payments are payable under this Act by a liable parent of the child 30

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

**“taxable income** has the meaning in section YA 1 of the Income Tax Act 2007”. 35

**6 Objects**

- (1) The heading to section 4 is amended by adding “**and overview of this Act**”.
- (2) Section 4 is amended by repealing paragraph (c).
- (3) Section 4(d) is amended by omitting “according to their capacity to provide financial support” and substituting “according to their relative capacity to provide financial support and their relative levels of provision of care”. 5
- (4) Section 4 is amended by inserting the following paragraph after paragraph (f): 10
  - “(fa) to affirm the right of carers who provide significant care to children to receive financial support in respect of those children from a parent or parents of the children.”.
- (5) Section 4(g) is amended by omitting “caregivers” and substituting “carers”. 15
- (6) Section 4(h) is amended by omitting “between custodial and non-custodial parents” and substituting “between parents and, where applicable, carers”.
- (7) Section 4(j) is amended by—
  - (a) omitting “custodians” and substituting “carers”; and 20
  - (b) omitting “non-custodial” and substituting “liable”.

**7 New section 4A inserted**

The following section is inserted after section 4:

- “4A Overview of child support payable under formula assessment”** 25
- “(1) A person who provides care for a qualifying child and does not live with a parent of the child in a marriage, civil union, or de facto relationship may apply to the Commissioner for a formula assessment of child support payable for that child by a liable parent. 30
  - “(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. 35

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

*Amendments to Part 1 (liability to pay)*

**8 Children who qualify for child support**

Section 5 is amended by repealing paragraph (a) and substituting the following paragraph: 20

- “(a) is—
- “(i) under the age of 18; or
  - “(ii) aged 18 and, in relation to any period on or after **1 April 2014**, is enrolled at a registered school (as defined in section 2(1) of the Education Act 1989); and”.
- 25

**9 New headings and sections 7B to 19 substituted**

Sections 8 to 24 and the headings above sections 8, 11, 14, 18, and 21 are repealed and the following sections and headings substituted: 30

**“7B Number of parents of child**

- “(1) The Commissioner is entitled to assume, for the purposes of a formula assessment, that a qualifying child has 2 parents.
- “(2) However, if the Commissioner believes on reasonable grounds that that assumption is incorrect, the Commissioner must apply 35

the provisions of this Act, with any necessary modifications, to reflect the true position, as determined by the Commissioner.

*“Application for formula assessment*

**“8 Who may apply for formula assessment**

“(1) A carer of a qualifying child may apply to the Commissioner 5  
for a formula assessment of child support payable by a liable parent in respect of the child, if the carer is not living with a parent of the child in a marriage, civil union, or de facto relationship.

“(2) However, if a qualifying child is a child in respect of whom 10  
payments are being made under section 363 of the Children, Young Persons, and Their Families Act 1989, then, despite **subsection (1)**, the only person who may apply for a formula assessment in relation to the child is either of the following:

- “(a) the chief executive of the department for the time be- 15  
ing responsible for the administration of the Children, Young Persons, and Their Families Act 1989; or
- “(b) a body or organisation approved under section 396 of that Act.

**“9 Social security beneficiaries must apply for formula assessment 20**

“(1) This section applies to a person who—

- “(a) is a social security beneficiary; and
- “(b) is a carer referred to in **section 8(1)** who provides, or considers that he or she provides, at least 28% of 25  
ongoing daily care to a qualifying child (other than a child to whom **section 8(2)** applies); and
- “(c) does not have an existing child support arrangement with or involving all the liable parents of the child.

“(2) A person to whom this section applies must apply for a formula 30  
assessment of child support in relation to every parent of the child.

“(3) An application for a formula assessment must be made at the same time as an application for the social security benefit is 35  
made, and at any other time when the Commissioner notifies



the beneficiary that an application for a formula assessment is required in relation to a qualifying child.

- “(4) If the person is in receipt of an unsupported child’s benefit in respect of 1 or more children, but is not in receipt of any other social security benefit, **subsection (2)** applies only in relation to the child or children in respect of whom the unsupported child’s benefit is paid. 5
- “(5) Any beneficiary who fails to comply with their obligations under this section is liable under section 70A of the Social Security Act 1964 to have their rate of benefit reduced. 10

**“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— 15
- “(a) identify at least 1 qualifying child to whom the application relates; and
  - “(b) identify, in relation to each qualifying child, at least 1 person who provides at least 28% of ongoing daily care to the child; and 20
  - “(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 25 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— 30
- “(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 35 by the application form.

**“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. 5
- “(2) **Subsection (3)** applies if—
- “(a) an application is made on a single form for child support in respect of 1 child or 2 or more children; and
  - “(b) payment of child support is sought from 2 or more persons for the child or any of the children. 10
- “(3) When this subsection applies, the form may be treated as if it contained separate applications for a formula assessment of child support in respect of the child or each of the children from a person from whom payment of child support is sought.

**“12 Deemed application by beneficiary**

- “(1) This section applies if a social security beneficiary is entitled to child support payments under a voluntary agreement but child support payments then cease to be payable under the agreement because— 15
- “(a) the agreement expires; or 20
  - “(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. 25
- “(2) If this section applies, on the day after the date on which the child support payments cease to be payable under the agreement, the Commissioner is deemed to have received from the beneficiary a properly completed application for a formula assessment for child support, as required by **section 9**, in relation to the same child or children, the same liable parent, and the same carer, as the voluntary agreement related to. 30

**“13 Notification by Commissioner of application**

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 35

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 5
- “(c) the annual rate of child support payable by any liable parent in respect of all the liable parent’s qualifying children; and 10
- “(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.

*“Determining care cost percentages” 15*

**“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 provides to the child. 20
- “(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 25
- “(b) if 1 of the people is a parent of the child, that person must be treated as the carer.

**“15 How Commissioner establishes proportions of care**

- “(1) For the purpose of **section 14**, the Commissioner may 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. 30
- “(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. 35

- “(3) However, a 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. 5
- “(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. 10
- “(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 having regard primarily to the periods the child is in the care of the carer, and then to the following factors: 15
- “(a) how the responsibility for decisions about the daily activities of the child is shared; and
  - “(b) who is responsible for taking the child to and from school and supervising the child’s leisure activities; and
  - “(c) how decisions about the education of the child are made; and 25
  - “(d) how decisions about the health care of the child are made; and
  - “(e) the financial arrangements for the child’s material support; and 30
  - “(f) which parent or carer pays for which expenses of the child.
- “(6) When establishing proportions of care, the Commissioner—
- “(a) must use only whole percentage figures; and
  - “(b) must assume that every year has 365 days. 35

**“16 Determining care cost percentages**

- “(1) The Commissioner must determine the care cost percentage of each 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 1**.

5

*“Liable parents and receiving carers*

“**17 Identification of liable parents and receiving carers**

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

- “(a) a parent of a qualifying child whose income percentage (as determined under **section 31**) exceeds their care cost percentage (as determined under **section 16**) is a liable parent of the child; and 10
- “(b) a parent carer of a qualifying child whose income percentage is less than their care cost percentage is a receiving carer of the child; and 15
- “(c) a non-parent carer of a qualifying child who provides at least 28% of ongoing daily care to the child is a receiving carer of the child.

“**18 Effect of being liable parent or receiving carer**

20

- “(1) A person who the Commissioner determines is a liable parent of a child is liable to make payments of child support in respect of that child, in accordance with an assessment under Part 2.
- “(2) A person who the Commissioner determines is a receiving carer of a child is a person in relation to whom child support payments in respect of the child are payable, in accordance with Part 9. 25

*“Beginning of liability to pay child support under formula assessment*

“**19 When liability to pay child support starts**

30

- “(1) The liability of a liable parent to pay child support under a formula assessment starts from the day on which the properly completed application for that formula assessment is received by the Commissioner.

- “(2) If a parent becomes liable to pay child support to a person in relation to a child under a formula assessment, any existing liability of that parent to pay child support to the person in relation to that child under any other agreement is suspended between the commencement of liability to pay under the formula assessment and the end of that liability. 5
- “(3) If the Commissioner receives an application for a formula assessment that names a person as a parent of a qualifying child (**person P**), but person P is not at that time a parent of the child within the meaning of section 7, then, if the application is otherwise properly completed, liability by person P to pay child support in respect of the child starts from the day on which the application was received if— 10
- “(a) a court later declares person P to be the parent of the child, or person P is later declared to be a parent of the child by an order made by a court or a public authority in an overseas jurisdiction; and 15
- “(b) the Commissioner determines under this Part that person P is a liable parent of the child.”
- 10 New section 25 substituted 20**  
 Section 25 is repealed and the following section substituted:
- “25 When liability to pay child support ceases**
- “(1) A liable parent ceases to be liable to pay child support in respect of a qualifying child under a formula assessment on the day before the date on which the child— 25
- “(a) ceases to be a qualifying child; or
- “(b) is adopted; or
- “(c) dies.
- “(2) A liable parent ceases to be liable to pay child support under a formula assessment on the day before the date on which the parent— 30
- “(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: 35
- “(iii) a person who is ordinarily resident in a country with which New Zealand has entered into a re-

- 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 5
- “(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: 10
- “(i) the 28th day after the date of death:
- “(ii) the date on which a properly completed application for formula assessment is received by the Commissioner from a carer in place of the carer 15 who has died:
- “(b) the day before the date on which the receiving carer ceases to provide at least 28% of ongoing daily care to the child:
- “(c) the day before the date on which the receiving carer 20 starts to live, or resumes living, with the liable parent of the child in a marriage, civil union, or de facto relationship:
- “(d) in any case to which **section 8(2)** applies, the day before the date on which the carer ceases to be under a 25 duty to make payments under section 363 of the Children, Young Persons, and Their Families Act 1989 in respect of the child:
- “(e) the day specified in a notice of election, given under section 27, to end the liability of the liable parent to 30 the carer (except that this paragraph does not apply in respect of any carer who is in receipt of a social security benefit):
- “(f) in a case where a voluntary agreement made in relation to the child between the liable parent and the carer is 35 accepted by the Commissioner, the day before the date on which that voluntary agreement first applies, in accordance with section 59.”

*Amendments to Part 2 (assessment of amounts)***11 New headings and sections 28A to 36D substituted**

Sections 29 to 36 and the heading above section 32 are repealed and the following sections and headings substituted:

**“28A Commissioner to assess child support payable under formula assessment 5**

“(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 10

“(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. 15

“(2) Before, or as soon as practicable after, the start of each later child support year in which child support continues to be payable by the liable parent, the Commissioner must make the assessments referred to in **subsection (1)(a) and (b)** in relation to that later child support year. 20

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

**“29 Formula for assessing annual amount of child support 25**

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

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

where—

i% is the liable parent’s income percentage determined under **section 31** 30

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



- 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 all parents of the child; and
  - (b) the number of children in the child’s child support group; and
  - (c) the age group of those children
- n is the number of children in the same child support group as the child.
- “(2) However, in the case of a liable parent to whom **section 36** applies (a parent with more than 1 child support group), the annual amount of child support for a child support year in respect of a qualifying child is the lesser of—
- “(a) the amount determined under **subsection (1)**; and
  - “(b) the amount determined under the multi-group cap applying to that child.
- “(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.
- “**30 Minimum annual rate of child support**
- If, after assessing the annual amount of child support payable by a liable parent in respect of each of his or her qualifying children, the Commissioner determines that the total amount payable by the parent is less than the minimum annual rate referred to in **section 72(1)(a)**, the Commissioner must, despite **section 29**,—

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

*“Determining income percentages*

**“31 Income percentage** 10

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

15

**“32 Child support income amount**

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

“(a) the person’s living allowance (as determined under **section 34**) for the child support year:

“(b) the sum of any dependent child allowances to which the person is entitled under **section 35** for the child support year: 25

“(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 adjusted taxable income of a parent of a qualifying child cannot reasonably be ascertained, the person’s child support income amount is to be treated as being,— 30

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

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

**“33 Adjusted taxable income**

- “(1) A person’s **adjusted taxable income** for a child support year is 5  
the person’s taxable income for the relevant tax year adjusted  
by the adjustments (if any) that would be made to the person’s  
taxable income to determine the person’s family scheme in-  
come under subpart MB of the Income Tax Act 2007, except  
that the following are not to be treated as being part of the per- 10  
son’s family scheme income for this purpose:  
“(a) income that is exempt income under section CW 32 of  
the Income Tax Act 2007 (child support and spousal  
maintenance):  
“(b) income referred to in section MB 11 of the Income Tax 15  
Act 2007 (income derived by dependent children):  
“(c) income referred to in section MB 12 of the Income Tax  
Act 2007 (non-residents’ foreign-sourced income of the  
person’s spouse or partner).  
“(2) However, in relation to any period before the close of the day 20  
before **1 April 2014**, a person’s adjusted taxable income for a  
child support year is the person’s taxable income without the  
adjustments referred to in **subsection (1)**.  
“(3) A person’s taxable income must be taken to be their taxable 25  
income for the most recent tax year if—  
“(a) it was derived solely from withholding income; and  
“(b) no adjustments of the sort referred to in **subsection (1)**  
are made.  
“(4) If **subsection (3)** does not apply, a person’s taxable income 30  
for a child support year must be taken to be their taxable in-  
come in the tax year immediately preceding the most recent  
tax year, inflated by the inflation percentage for the child sup-  
port year.  
“(5) If a person’s taxable income for a tax year has not been as- 35  
sessed, the Commissioner must determine the person’s taxable  
income—  
“(a) if an income statement has been issued, on that basis;  
and

“(b) in any other case, on the basis of the income and any other particulars known to the Commissioner.

**“34 Living allowance**

- “(1) A person’s **living allowance** in a child support year is the amount of domestic purposes benefit payable to a beneficiary with 1 or more dependent children as specified in Schedule 16 or 17 of the Social Security Act 1964, where that amount is—
- “(a) increased by the total amount of income tax deductions that would be required to make the rate a gross, rather than a net, rate (as determined in accordance with section RD 11(3) of the Income Tax Act 2007); and
- “(b) annualised.
- “(2) The amount referred to in **subsection (1)** is the amount set out in Schedule 16 of the Social Security Act 1964 unless **subsection (3)** applies, in which case the amount is the amount set out in Schedule 17 of that Act.
- “(3) The amount in Schedule 17 of the Social Security Act 1964 applies only to a person who has been granted a domestic purposes benefit under section 27G of that Act (domestic purposes benefit for care at home of sick or infirm).
- “(4) The version of the appropriate schedule of the Social Security Act 1964 that applies in a child support year is the version in force on 1 January in the immediately preceding child support year.
- “(5) The Commissioner must ensure that notice of the applicable living allowances under this section that apply to the current and (if applicable) the previous child support year is available at all reasonable times on an Internet site maintained by or on behalf of the Inland Revenue Department.

**“35 Dependent child allowance**

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

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

where—

$c\%$  is the care cost percentage of the parent in relation to the dependent child

$e$  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 taxable income of the parent, minus the parent's living allowance; and
- (b) the number of children in the dependent child's child support group; and
- (c) the age group of those children

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

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

“(a) is maintained as a member of the parent's family; and

“(b) is—

“(i) under the age of 18; or

“(ii) aged 18 and, in relation to any period on or after **1 April 2014**, is enrolled at a registered school (as defined in section 2(1) of the Education Act 1989); and

“(c) is not a child for whom any person is liable to pay child support; and

“(d) is not financially independent; and

“(e) is not living with another person in a marriage, civil union, or de facto relationship.

“**36 Multi-group allowance**

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

- “(2) For the purpose of calculating a person’s child support income amount in relation to a particular child (**child C**) in a child support year, a person 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. 5
- “(4) The multi-group cost of child D is—

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

where—

- e is the amount, determined in accordance with the child expenditure table applying to the relevant child support year, that applies to the parent in respect of child D— 10
- (a) on the basis of the child support income amount of that parent alone, with that amount being treated as the adjusted taxable income of the parent, minus the parent’s living allowance and the sum of any dependent child allowances to which the parent is entitled; and 15
- (b) as if— 20
- (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. 25

*“Amounts payable in respect of receiving carers”* 25

**“36A Where parent is sole receiving carer**

If, in respect of a qualifying child, a liable parent is liable to pay only 1 receiving carer, and that carer (**person P**) is a parent of the child, the amount of child support payable in respect of person P is the amount that person P would pay if the difference between person P’s income percentage and care cost percentage (which, under the formula in **section 29**, is a negative percentage) were a positive percentage. 30

**“36B Where all receiving carers are non-parents**

If, in respect of a qualifying child, a liable parent is liable to pay child support in respect of 1 or more receiving carers, none of whom are parents of the child, the amount of child support payable in respect of each carer is—

5

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

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

10

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

**“36C Where 2 or more receiving carers, with at least 1 parent**

“(1) This section applies if, in respect of a qualifying child, a liable parent is liable to pay child support in respect of 2 or more receiving carers and at least 1 of them is a parent of the child.

15

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

20

“(3) If this section applies, the amount of child support payable to each non-parent receiving carer of the child is—

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

where—

25

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

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

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

30

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

*“Expenditure on children*

**“36D Child expenditure tables**

5

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

“(a) the amount of the average weekly earnings that applies; 10  
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. 15

“(2) The Commissioner must ensure that the child expenditure table for the current and (if applicable) the previous child support year is available at all reasonable times on an Internet site maintained by or on behalf of the Inland Revenue Department.” 20

**12 Effect of election**

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

“(1) If a person (**person E**) makes an election under section 40 in relation to a child support year, the Commissioner must revise 25  
every formula assessment relating to person E in order to recalculate the annual child support income amounts in relation to each of his or her qualifying children, in relation to any day in the election period, in accordance with the following formula: 30

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

where—

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



- (a) the annual amount of child support payable by a liable parent, in relation to the child, taking into account person E's estimate of his or her adjusted taxable income as specified in the election; and
  - (b) the portion of the minimum annual rate of child support (determined under **section 72(1)(a)**) payable by a liable parent in relation to the child
- j is the amount, if any, of child support payable by a liable parent under a formula assessment in relation to the child in respect of the days in the child support year preceding the commencement of the day in the election period on which the revised formula assessment begins to apply
- k is the number of days in the election period that fall on or after the day on which the revised formula assessment continues to apply.
- “(1A) If the result of the revised formula assessment is that the original liable parent of the child remains the liable parent but their annual amount of child support liability changes in relation to a child, the liable parent's annual amount of child support for the child is the amount achieved by applying the formula in **subsection (1)**.
- “(1B) If the result of a revised formula assessment is that the identity of the liable parent, in relation to the child, changes, then the new liable parent's annual amount of child support for the child is the amount calculated in accordance with the following formula:

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

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

*Amendments to Part 5 (procedures)*

- 13 Minimum rate of child support or domestic maintenance**
- (1) Section 72(1) is amended by repealing paragraph (a) and substituting the following paragraph:
- “(a) child support payable under a formula assessment by a liable parent in respect of all of his or her children is,—

- “(i) for the child support year commencing on **1 April 2011**, \$848:
  - “(ii) for each later child support year, the minimum annual rate of child support under this paragraph for the immediately preceding child support year, 5  
adjusted by the applicable inflation percentage.”.
- (2) Section 72(1)(b) is amended by omitting “qualifying custodian” and substituting “receiving carer”.
- 14 New section 82 substituted**
- Section 82 is repealed and the following section substituted: 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, 15  
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 deter- 20  
mination 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): 25
    - “(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 liv- 30  
ing 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 35  
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 5
- “(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: 10
- “(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. 15
- “(3) Every notification of a change must be accompanied by such documentation as the Commissioner requires.”

**15 New sections 88 to 89 substituted**

Sections 88 and 89 are repealed and the following sections substituted: 20

**“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— 25
- “(a) as soon as practicable after making an assessment under **section 28A**; and
- “(b) after making any assessment that changes—
- “(i) the amount of child support payable by a liable parent in respect of the child; or 30
- “(ii) the respective amounts payable in respect of different receiving carers; and
- “(c) at the beginning of each later child support year.
- “(2) The notice of assessment must set out, as a minimum, the relevant matters identified in **section 88A**, but in no case may a notice of assessment reveal any more detail about another person who is a parent or carer than the person’s name (subject 35

to **subsection (5)**) and, in relation to a qualifying child, the person's proportion of care and care cost percentage.

- “(3) Except as required by **subsection (2)**, the notice of assessment must contain sufficient information to enable the recipient to exercise his or her rights to object under section 90 or 91. 5
- “(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 10
  - “(b) apply to the Commissioner under Part 6A; and
  - “(c) apply to a Family Court under Part 7.
- “(5) The Commissioner may omit from a notice of assessment the name of any parent or carer if he or she is satisfied that revealing the name to the recipient of the notice would be prejudicial to the safety of any parent, carer, or child. 15

**“88A Details in notices of assessments**

- “(1) A notice of assessment given to a liable parent must set out all of the following that are applicable in relation to each qualifying child to whom the notice relates: 20
- “(a) the child's first names and date of birth:
  - “(b) the names of the child's other parents (subject to **section 88(5)**):
  - “(c) the names of any non-parent carers of the child (subject to **section 88(5)**): 25
  - “(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**: 30
  - “(f) the liable parent's adjusted taxable income:
  - “(g) the first names and date of birth of every dependent child (as defined in **section 35(3)**) of the liable parent and the amount of the dependent child allowance for each dependent child: 35
  - “(h) the amount of any multi-group allowance to which the liable parent is entitled:

- “(i) the liable parent’s child support income amount in relation to the child:
- “(j) the combined child support income amounts of the liable parent and all the child’s other parents, in relation to the child: 5
- “(k) the liable parent’s income percentage in relation to the child.
- “(2) A notice of assessment given to a parent of a child who is a receiving carer must set out all of the following that are applicable in relation to each qualifying child to whom the notice relates: 10
  - “(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 carers of the child (subject to **section 88(5)**: 15
  - “(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**: 20
  - “(f) the parent’s adjusted taxable income:
  - “(g) the first names and date of birth of every dependent child (as defined in **section 35(3)**) of the parent and the amount of the dependent child allowance for each dependent child: 25
  - “(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: 30
  - “(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) A notice of assessment given under this section to a non-parent receiving carer of a child must set out all of the following that are applicable in relation to each qualifying child to whom the notice relates: 35
  - “(a) the child’s first names and date of birth:

- “(b) the names of the child’s liable parent or parents, and any other parents (subject to **section 88(5)**):
  - “(c) the names of any other non-parent 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: 5
  - “(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 notice: 10
  - “(g) the amount of child support payable by each of the child’s liable parents in respect of the carer.
- “89 Notification by Commissioner to other payers and payees 15**
- “(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 20
  - “(b) child support under a voluntary agreement; or
  - “(c) child support under a court order made on or after 1 July 1992.
- “(2) The notice must set out—
- “(a) the amount of domestic maintenance or child support payable; and 25
  - “(b) the name of the payer and the payee; and
  - “(c) the name of each child in respect of whom payment is to be made.
- “(3) The notice must be given— 30
- “(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. 35

- “(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 5
- “(b) apply to a Family Court under Part 7.”

*Amendments to Part 6 (objections)*

**16 Objections to appealable decisions**

- (1) Section 90(1) is amended by repealing paragraphs (a) and (b) and substituting the following paragraphs: 10
- “(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.”. 15
- (2) Section 90(1) is amended by repealing paragraph (d) and substituting the following paragraph:
- “(d) a decision that a penalty has been imposed by operation of section 45 or **134**.”.

**17 Objections to assessments** 20

- (1) Section 91(1) is amended by repealing paragraph (a) and substituting the following paragraph:
- “(a) that, in relation to an assessment of financial support, the amount payable under the assessment in any child support year is incorrect; or”.
- (2) Section 91 is amended by repealing subsection (2) and substituting the following subsection:
- “(2) An objection under this section may be made by any person who is affected by the assessment.” 25

**18 Requirements in relation to objections** 30

- Section 92 is amended by inserting the following subsection after subsection (3):
- “(3A) An objection against a decision referred to in **section 90(1)(b)** (about the proportion of care that a carer provides

to a child) must be based only on the information that was before the Commissioner at the time the decision establishing the proportion of care was made.”

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

5

- 19 Commissioner may make determination under this Part**  
Section 96Q is amended by repealing subsection (2) and substituting the following subsection:

“(2) The parties to the proceedings under this Part are—

- “(a) the parent who 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.”

10

*Amendments to Part 7 (appeals and departure orders)*

15

- 20 Sections 100 and 101 repealed**  
Sections 100 and 101 are repealed.

- 21 Orders that may be made**  
Section 106(1) is amended by repealing paragraphs (a) and (b) and substituting the following paragraph:

20

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

*Amendment to Part 9 (payment)*

25

- 22 New section 152B inserted**  
The following section is inserted after section 152A:

**“152B Offsetting child support payments**

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

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

*New Schedules 1 and 2 inserted*

- 23 New Schedules 1 and 2 inserted** 5  
The principal Act is amended by inserting after section 275 the Schedules 1 and 2 set out in **Schedule 1** of this Act.

*Consequential amendments*

- 24 Consequential amendments to principal Act** 10  
The principal Act is consequentially amended in the manner set out in **Schedule 2**.
- 25 Consequential amendment to Adoption Act 1955** 15  
Section 16(6) of the Adoption Act 1955 is amended by omitting “section 25(1)(b)(iii)” and substituting “**section 25(2)(b)**”.

**Part 2**

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

*Amendments to Part 7 (grounds for departure  
from formula assessment)* 20

- 26 Matters as to which court must be satisfied before making order**
- (1) Section 105(2)(b) is amended by repealing subparagraph (i) and substituting the following subparagraph: 25  
“(i) of high costs incurred by a parent or a receiving carer in enabling a parent to have access (of any kind and for any purpose) to the child; or”.
- (2) Section 105(2) is amended by adding “; or” and also by adding the following paragraph: 30  
“(d) that, at any time within 3 years starting on the date on which the child’s parents ceased to live together in a marriage, civil union, or de facto relationship, the ap-

plication in relation to the child of the provisions of this Act relating to formula assessment of child support would result in an unjust and inequitable determination of the level of financial support to be provided by the liable parent for the child because a re-establishment costs situation exists under **subsection (7)**.” 5

- (3) Section 105 is amended by repealing subsection (3) and substituting the following subsection:

“(3) For the purposes of **subsection (2)(b)(i)**, costs incurred in enabling a parent to have access (of any kind and for any purpose) to the child are not to be taken to be high unless the total of those costs during a child support year is more than 5% of the adjusted taxable income for the year of the person incurring the costs.” 10

- (4) Section 105 is amended by adding the following subsections: 15

“(7) A re-establishment costs situation exists under this subsection for the purposes of **subsection (2)(d)** if, and only if,—

“(a) the adjusted taxable income of a parent of the child for the child support year concerned includes a proportion that is— 20

“(i) no more than 30% of that income; and

“(ii) income from work done by that parent and that, in quantity or nature or both, is additional to work that he or she did before the child’s parents ceased to live together in a marriage, civil union, or de facto relationship; and 25

“(b) some or all of that proportion of that income is used, or needs to be used, by a parent of the child in that child support year to meet, wholly or partly, actual and reasonable costs incurred to re-establish himself or herself, and any child or other person that he or she has a duty to maintain, after the child’s parents ceased to live together in a marriage, civil union, or de facto relationship. 30

“(8) In computing, for the purposes of **subsection (2)(d)**, the 3-year period after the child’s parents ceased to live together in a marriage, civil union, or de facto relationship, the court may exclude a period or periods of resumed cohabitation with, or each with, the sole or main motive of reconciliation 35

if that period does not exceed, or those periods in aggregate do not exceed, 3 months.”

*Amendments to Part 8 (automatic deduction)*

**27 New heading and sections 129 to 131A substituted**

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

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

**“129 Financial support generally to be paid only by automatic deduction 10**

**“(1) All financial support that an automatic deduction person is required by this Act to pay on or after 1 April 2014 must be paid only by way of automatic deduction under Part 10 except insofar as the Commissioner considers that method inappropriate. 15**

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

**“(a) a person who is a PAYE or ACC income recipient, but only if or to the extent that he or she is not a person who is in receipt of a benefit specified in paragraph (c) or a grant specified in paragraph (d): 20**

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

**“(c) a person who is in receipt of a benefit under the Social Security Act 1964, the Social Welfare (Transitional Provisions) Act 1990, Part 6 of the War Pensions Act 1954, or the New Zealand Superannuation and Retirement Income Act 2001: 25**

**“(d) a person who is in receipt of a basic grant or an independent circumstances grant under the Student Allowances Regulations 1998. 30**

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

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

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

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

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

5

- “(1) The Commissioner may, to enable the liable parent to pay some of the child support for a child that this Act requires the liable parent to pay in a child support year, recognise under this section 1 or more payments if, and only if,—

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

10

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

15

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

20

- “(d) no parent of the child had when entering into the written agreement child support debt (which, under **section 134A(b)**, may be debt that is or includes related penalties) that remained unpaid after the time it became due and payable; and

25

- “(e) the Commissioner is satisfied, on the basis of information available to the Commissioner, that—

- “(i) each payment to be recognised is a qualifying payment for the child’s direct benefit made in that year; and

30

- “(ii) recognition of the payment or payments is consistent with no less than 10%, and no more than 30%, of the child support for the child that this Act requires the liable parent to pay in that year being paid by way of recognition of payments under this section.

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- “(2) A written agreement referred to in **subsection (1)(c)** complies with this subsection if it is to the effect that the child’s

parents intend no less than 10%, and no more than 30%, of the child support for the child that this Act requires the liable parent to pay in the child support year to be paid by way of recognition of payments under this section.

- “(3) If asked to recognise a payment (provisionally or finally) under this section, or to revoke provisional recognition of a payment under **section 131A**, the Commissioner may require a parent or carer of the child to produce any evidence that the Commissioner, in his or her discretion, considers appropriate to enable the Commissioner to decide whether to do so. 5 10
- “(4) For the purposes of section 96 (which identifies matters with respect to which Part 6 does not confer any right of objection), all decisions under this section and **section 131A** are matters left by those sections to the discretion of the Commissioner.

“**131A Provisional recognition under section 131** 15

- “(1) The Commissioner may under this subsection before or during the child support year referred to in **section 131** recognise provisionally (despite **section 131(1)(e)(i)**) an anticipated payment that, if made as anticipated, would comply fully with **section 131(1)**. 20
- “(2) However, provisional recognition under **subsection (1)** of an anticipated payment—
- “(a) becomes recognition under **section 131(1)** of that payment once made only if and after **section 131(1)** is complied with fully for the payment; and 25
- “(b) may be revoked by the Commissioner if the Commissioner is satisfied, on the basis of information available to the Commissioner, that the anticipated payment has not been made as anticipated.
- “(3) On revoking provisional recognition under **subsection (1)** of an anticipated payment, the Commissioner must as soon as practicable decide, and advise the liable person and the receiving carer, how the child support that was to be paid by way of recognition of the payment is instead to be paid under **section 130** by some other method or methods.” 30 35

*Amendments to Part 8 (penalties)***28 New sections 134 to 134C substituted**

Section 134 is repealed and the following sections are substituted:

**“134 Penalties for late payment of financial support debts 5**

*“Late payment penalties (initial and incremental)*

- “(1) A person liable to pay a financial support debt (whether that debt is incurred before, on, or after **1 April 2014**) is liable to pay to the Commissioner a penalty of the amount stated in **subsection (2), (3), (4), (5), or (6)** if— 10

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

“(b) at the time stated in that subsection, some or all of the debt remains unpaid. 15

*“Initial late payment penalty: due date*

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

“(a) the amount of \$5; and

“(b) an amount equal to 2% of the amount of financial support remaining unpaid at the expiry of the due date. 20

*“Initial late payment penalty: seventh day after due date*

- “(3) At the expiry of the seventh day after the due date, the penalty is an amount equal to 8% of so much (if any) of the amount of financial support remaining unpaid at that expiry. 25

*“Incremental late payment penalty: first month after due date*

- “(4) At the expiry of the period of 1 month that starts on the day after the due date, the penalty is an amount equal to 2% of so much (if any) of the sum of the following as remains unpaid at that expiry: 30

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

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

*“Incremental late payment penalty: first 11 later months 35*

- “(5) At the expiry of each of the first 11 periods of 1 month (if any) that, consecutively, follow the 1-month period referred to in

**subsection (4)**, the penalty is an amount equal to 2% of so much (if any) of the sum of the following as remains unpaid at that expiry:

- “(a) the amount of financial support remaining unpaid at the expiry of the due date: 5
- “(b) all penalties, if any, imposed under any of **subsections (2) to (4)**:
- “(c) all penalties, if any, earlier imposed under this subsection.

*“Incremental late payment penalty: months after 1 year” 10*

- “(6) At the expiry of each of the periods of 1 month (if any) that, consecutively, follow the last of the 11 periods of 1 month referred to in **subsection (5)**, the penalty is an amount equal to 1% of so much (if any) of the sum of the following as remains unpaid at that expiry: 15

- “(a) the amount of financial support remaining unpaid at the expiry of the due date: 15
- “(b) all penalties, if any, imposed under any of **subsections (2) to (5)**:
- “(c) all penalties, if any, earlier imposed under this subsection. 20

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

#### “134A Status of penalties under section 134

A penalty payable under **section 134**—

- “(a) is a debt due to the Crown; and 25
- “(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 30

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

**Section 134** does not limit or affect the person’s liability to pay any penalties imposed in respect of the same debt under the former section 134 before it was repealed on **1 April 2014** 35 by the **Child Support Amendment Act 2011**.



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

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

*Amendments to Part 8 (relief from penalties)*

**29 Interpretation for purposes of sections 135A to 135O**

- (1) The heading to section 135 is amended by omitting “**135A**” and substituting “**135AA**”. 10

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

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

- “(a) before **1 April 2014** under section 134(1)(b) or (c) 15  
(as repealed by the **Child Support Amendment Act 2011**); or

- “(b) on or after **1 April 2014** under **section 134(4) or (5) or (6)** (as substituted by the **Child Support Amendment Act 2011**) 20

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

- “(a) before **1 April 2014** under section 134(1)(a) (as repealed by the **Child Support Amendment Act 2011**); 25  
or

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

*Amendment to Part 8 (payment agreements)*

**30 New heading and section 135AA inserted** 30

The following heading and section are inserted after section 135:

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

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

- “(1) The Commissioner may decline to enter into a payment agree- 5  
ment with a liable person solely for the reason that the Com-  
missioner 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 10  
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 rea- 15  
son; 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), 20  
the Commissioner’s decision whether to enter into or make  
a payment agreement is a matter left by this section to the  
discretion of the Commissioner.”

*Amendments to Part 8 (discretionary relief from  
penalties)* 25

**31 Application of sections 135B to 135G**

- (1) The heading to section 135A is amended by omitting “**135G**”  
and substituting “**135GA**”.  
(2) Section 135A(1) and (2) are amended by omitting “135G” and  
substituting in each case “**135GA**”. 30

**32 New section 135FA inserted**

The following section is inserted after section 135F:

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

- “(1) For the purposes of this section,— 35

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

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

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

“(b) the amount of financial support (if any) that the person 10 will become liable to pay during the term of the payment agreement.

“(2) The Commissioner may grant relief to the liable person in the manner prescribed by section 135A in respect of the incremental penalties of the liable person that were unpaid at the time 15 a payment agreement was entered into if the Commissioner is satisfied that recovery of those incremental penalties would do either or both of the following:

“(a) place the liable person in serious hardship (as defined in section 135G(3)); 20

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

“(3) Before making a decision under **subsection (2)(b)**, the Commissioner must have regard to the matters referred to in sections 6 and 6A of the Tax Administration Act 1994.” 25

### **33 Discretionary relief for residual incremental penalty debt**

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

(2) Section 135G(3) is amended by inserting “and **section 180A(b)**” after “In this section”. 30

### **34 New section 135GA inserted**

The following section is inserted after section 135G:

#### **“135GA Discretionary relief for residual penalty-only debt**

“(1) The Commissioner may grant relief to a liable person from 35 the payment of initial late payment penalties or incremental

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

“(a) the liable person has paid, or had written off in accordance with this Act, all of the liable person’s financial support debt; and 5

“(b) the Commissioner is satisfied that recovery of those penalties would involve an inefficient use of the Commissioner’s resources.

“(2) Before making a decision under **subsection (1)(b)**, the Commissioner must have regard to the matters referred to in sections 6 and 6A of the Tax Administration Act 1994.” 10

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

**35 New sections 135GB and 135H inserted**

Section 135H is repealed and the following sections are inserted: 15

**“135GB Relief from initial late payment penalty if full or substantial compliance with payment arrangement entered into or made on or after 1 April 2014 and within 3-month period 20**

“(1) The Commissioner must write off an initial late payment penalty if satisfied that—

“(a) that penalty was imposed in respect of a debt that is or includes the first payment of financial support payable by the liable person under a formula assessment, voluntary agreement, or order of the court issued or made before, on, or after **1 April 2014**; and 25

“(b) a payment arrangement was entered into or made on or after **1 April 2014** and within the 3 months that began on the date of issue or making of the assessment, agreement, or order under which that first payment is payable, and has been fully or substantially complied with in accordance with **subsection (5)**. 30

“(2) The payment arrangement referred to in **subsection (1)(b)** must be a payment agreement specified in **subsection (3)** or a deduction notice specified in **subsection (4)**. 35

- “(3) The payment agreement is one that the liable person entered into with the Commissioner to pay, in 1 sum or 2 or more instalments of specified amounts,—
- “(a) the first payment mentioned in **subsection (1)(a)**; and
  - “(b) other payments of financial support that were or would become payable (under the assessment, agreement, or order mentioned in **subsection (1)(a)**, or any other assessment, voluntary agreement, or order of the court) by the liable person. 5
- “(4) The deduction notice is one that the Commissioner gave a person under section 154 in relation to the liable person in order to collect, in 1 sum or 2 or more deductions and payments,—
- “(a) the first payment mentioned in **subsection (1)(a)**; and
  - “(b) other payments of financial support that were or would become payable (under the assessment, agreement, or order mentioned in **subsection (1)(a)** or any other assessment, voluntary agreement, or order of the court) by the liable person. 15
- “(5) The payment arrangement referred to in **subsection (1)(b)** has been fully or substantially complied with in accordance with this subsection if the arrangement has operated for a period that the Commissioner considers reasonable and—
- “(a) it is a payment agreement, and to date there has been either no default in the payment in accordance with that agreement of the 1 sum, or every one of the 2 or more instalments, specified in **subsection (3)**, or only default of that kind to an extent, or arising from a cause, that the Commissioner considers reasonable; or 25
  - “(b) it is a deduction notice, and to date there has been either no default in the making in accordance with that notice of every one of the 2 or more deductions and payments specified in **subsection (4)**, or only default of that kind to an extent, or arising from a cause, that the Commissioner considers reasonable. 30
- “(6) If an initial late payment penalty written off under **subsection (1)** has been paid in whole or in part, the Commissioner must refund to the liable person the whole or part of the penalty paid. 35

**“135H Relief from initial late payment penalty if full****compliance with payment arrangement entered into or made before 1 April 2014 and within 3-month period**

“(1) The Commissioner must write off an initial late payment penalty if satisfied that—

5

“(a) that penalty was imposed in respect of a debt that is or includes the first payment of financial support payable by the liable person under a formula assessment, voluntary agreement, or order of the court issued or made before, on, or after **1 April 2014**; and

10

“(b) a payment arrangement was entered into or made on or after 26 September 2006 and before **1 April 2014** and within the 3 months that began on the date of issue or making of the assessment, agreement, or order under which that first payment is payable, and has been fully

15

complied with in accordance with **subsection (5)**.

“(2) The payment arrangement referred to in **subsection (1)(b)** must be a payment agreement specified in **subsection (3)** or a deduction notice specified in **subsection (4)**.

“(3) The payment agreement is one that the liable person entered into with the Commissioner to pay, in 1 sum or 2 or more instalments of specified amounts,—

20

“(a) the first payment mentioned in **subsection (1)(a)**; and

“(b) other payments of financial support that were or would become payable (under the assessment, agreement, or order mentioned in **subsection (1)(a)**, or any other assessment, voluntary agreement, or order of the court) by the liable person.

25

“(4) The deduction notice is one that the Commissioner gave a person under section 154 in relation to the liable person in order to collect, in 1 sum or 2 or more deductions and payments,—

30

“(a) the first payment mentioned in **subsection (1)(a)**; and

“(b) other payments of financial support that were or would become payable (under the assessment, agreement, or order mentioned in **subsection (1)(a)** or any other assessment, voluntary agreement, or order of the court) by the liable person.

35

- “(5) The payment arrangement referred to in **subsection (1)(b)** has been fully complied with in accordance with this subsection if—
- “(a) it is a payment agreement, and the 1 sum, or every one of the 2 or more instalments, specified in **subsection (3)** is paid in full in accordance with that agreement; or 5
- “(b) it is a deduction notice, and every one of the 2 or more deductions and payments specified in **subsection (4)** is made in accordance with that notice.
- “(6) If an initial late payment penalty written off under **subsection (1)** has been paid in whole or in part, the Commissioner must refund to the liable person the whole or part of the penalty paid.” 10

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

15

**36 Relief from incremental penalties unpaid before agreement entered into**

- (1) The heading to section 135J is amended by adding “**on or after 26 September 2006 but before 1 April 2014**”.
- (2) The definition of **payment agreement** in section 135J(1) is amended by omitting “after the commencement of this section” and substituting “on or after 26 September 2006 but before **1 April 2014**”. 20

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

25

- (1) The heading to section 135K is amended by omitting “**before commencement**” and substituting “**before 26 September 2006**”.
- (2) The definition of **payment agreement** in section 135K(1) is amended by omitting “before the commencement of this section” and substituting “before 26 September 2006”. 30
- (3) The definition of **specified deduction notice** in section 135K(1) is amended—
- (a) by omitting “before the commencement of this section” 35  
and substituting “before 26 September 2006”; and

- (b) by omitting “before this section comes into force” and substituting “before 26 September 2006”.

**38 Relief from ongoing incremental penalties if payment agreement in force**

Section 135M is amended by repealing subsection (1) and substituting the following subsection: 5

“(1) This section applies if—

- “(a) an incremental penalty is by operation of law imposed on a person at the expiry of a 1-month period; and
- “(b) during that 1-month period, the person is liable to pay financial support, initial late payment penalties, or incremental penalties that are payable in 1 sum, or in 2 or more instalments, under a payment agreement entered into between the person and the Commissioner; and 10
- “(c) every sum or instalment payable under the payment agreement during that 1-month period has during that 1-month period been paid in full in accordance with the payment agreement.” 15

**39 Relief from ongoing incremental penalties if deduction notice in force**

Section 135N is amended by repealing subsection (1) and substituting the following subsection: 20

“(1) This section applies if—

- “(a) an incremental penalty is by operation of law imposed on a person at the expiry of a 1-month period; and 25
- “(b) during that 1-month period, the person is liable to pay financial support, initial late payment penalties, or incremental penalties by way of deductions required to be made, and paid to the Commissioner, under a deduction notice given under section 154; and 30
- “(c) each deduction required during that 1-month period to be made, and paid to the Commissioner, under the deduction notice has during that 1-month period been made in accordance with the deduction notice.”



*Amendment to Part 9 (payment)*

**40 Method in which payments to be made**

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

*Amendment to Part 10 (automatic deductions)* 5

**41 Deduction notice**

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

*Amendment to Part 11 (discretion to write off certain child support debt)* 10

**42 New section 180A inserted**

The following section is inserted after section 180:

**“180A Commissioner may write off benefit component of child support debt if receiving carer is or was social security beneficiary and recovery would place liable person in serious hardship** 15

“(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— 20

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

“(b) the Commissioner is satisfied that recovery of that amount would place the liable person in serious hardship (as defined in section 135G(3)). 25

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

**Schedule 1**  
**New Schedules 1 and 2 inserted**

s 23

**Schedule 1**  
**Care cost percentage**

s 2(1), 16

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

5

## Schedule 2

### Expenditure on children

s 36D

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

**Fraction of  
AWE**

**Percentages of child support income amounts**

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

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

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

Child Support Amendment Bill

Schedule 2

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## Schedule 2

### Consequential amendments to principal Act

s 24

#### Section 1

Heading: omit “**Short**”.

5

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

#### Section 2(1)

Definition of **child support income amount**: omit “section 29” and substitute “**section 32**”.

Definition of **formula assessment**: omit “Part 2” and substitute “Parts 1 and 2”.

10

Definition of **inflation percentage**: omit and substitute:

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

15

Definition of **living allowance**: omit “section 30” and substitute “**section 34**”.

Definition of **payee**: omit “the person who is the qualifying custodian” and substitute “a person who is a receiving carer”.

20

Definition of **properly made**: omit and substitute:

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

25

#### Section 26

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

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

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

30

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

**Section 27**

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

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

5

**Section 28(4)**

Omit “custodian” and substitute “carer”.

**Section 38**

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

10

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

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

15

**Section 38A**

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

20

Subsection (2): repeal and substitute:

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

25

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

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

30

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

**Section 39**

Subsection (2): repeal.

**Section 39A**

Omit “liable” in each place where it appears.

Subsection (1): omit “, being income that is taxable in that country,”.

Subsection (3)(a): repeal.

**Heading above section 40**

5

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

**Section 40**

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

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

**Section 42(2A)(b)**

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

**Section 43(1)**

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

**Section 44**

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

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

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

**Section 44A**

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

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

**Section 45(3)**

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

**Section 47(2)(b)**

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

**Section 48(1)(a)(i)**

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

**Section 62(1)(a)**

5

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

**Section 65**

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

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

**Section 77**

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

**Section 78**

Repeal.

**Section 81**

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

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

Subsection (3): repeal.

**Section 86(1)(a)**

25

Omit “qualifying custodian” and substitute “carer”.

**Section 87(3)(d)**

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



**Section 89N(1)(b)**

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

**Section 89O(1)**

Omit “both” and substitute “all”. 5

**Section 89Z(3)**

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

**Section 95(2)(a)**

Omit “section 100” and substitute “section 102”. 10

**Section 96B**

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

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

Omit “qualifying custodian” and substitute “receiving carer”. 15

**Heading to Part 6A**

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

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

Omit “the qualifying custodian” and substitute “the receiving carer”. 20

**Section 96T**

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

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

**Section 96U**

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

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

**Section 96V(a)**

Omit “liable” and substitute “subject”.

**Section 96W**

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

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

**Section 96X**

Heading: omit “**qualifying custodian**” and substitute “**receiving carers**”.

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

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

Paragraph (b): omit “the qualifying custodian (if the qualifying custodian elects to become a party under section 96Y)” and substitute “any receiving carer who elects to become a party under section 96Y”.

**Section 96Y**

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

Subsection (1): omit “The qualifying custodian” and substitute “Any receiving carer”.

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

Subsection (4): omit “liable parent of any election made by the qualifying custodian” and substitute “subject parent of any election made by a receiving carer”.

Subsections (5) and (6): omit “qualifying custodian” and substitute in each case “receiving carer”.

**Section 96Z**

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

**Section 96Z**—*continued*

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

Subsection (2): omit “by a liable parent or qualifying custodian” and substitute “a party”. 5

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

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

Subsections (3), (4) and (5): omit “liable” in each place where it appears and substitute in each case “subject”. 10

Subsections (3), (4) and (5): omit “qualifying custodian” and substitute in each case “receiving carer”.

**Section 96ZA**

Subsection (2): omit “the liable parent and to the qualifying custodian (if that person is a party to the proceedings)” and substitute “each party”. 15

Subsection (4): omit “qualifying custodian” and substitute “receiving carer”.

**Section 96ZB(2)**

20

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

Paragraphs (a) and (b): repeal.

**Section 96ZC**

Subsection (2): omit “the qualifying custodian and the liable parent” and substitute “the receiving carer and the subject parent”. 25

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

**Section 98**

Omit “eligible custodian” in each place where it appears and substitute in each case “receiving carer”. 30

**Section 98**—*continued*

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

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

**Section 99**

5

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

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

10

**Section 102**

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

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

**Section 103**

15

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

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

20

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

**Section 103B(1)**

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

**Section 103C**

25

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

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

**Section 103E**

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

**Section 104**

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

**Section 105**

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

Subsection (2)(b)(i): omit “qualifying custodian” and substitute “receiving carer”. 10

Subsection (2)(c)(ii): omit “qualifying custodian” and substitute “receiving carer”.

Subsection (2)(c)(iii): omit “custodian” and substitute “receiving carer”. 15

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

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

**Section 107** 20

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

**Section 108**

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

**Section 109**

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

**Section 110(1)**

Paragraph (a): omit “qualifying custodian” and substitute “receiving carer”. 30

**Section 110(1)**—*continued*

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

**Section 111(2)(a)**

Omit “custodian” and substitute “receiving carer”.

**Section 112**

5

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

**Section 113**

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

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**Section 115**

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

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

**Section 116**

Subsection (2)(b): omit “eligible custodian” and substitute “carer”. 15

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

**Section 119**

Subsection (1)(c)(i)(B): omit “qualifying custodian” and substitute “receiving carer”. 20

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

**Section 120(3)**

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

**Section 122(1)(a)**

Repeal and substitute:

25

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

### Section 125(2)

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

### Section 141

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

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

### Section 142

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

Omit “qualifying custodian” in each place where it appears and substitute in each case “receiving carer”. 10

### Section 143

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

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

Subsections (1) and (1A): omit “custodian” in each place where it appears and substitute in each case “receiving carer”. 15

### Section 144(1)

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

### Section 237(3)(b)

Omit “to a custodian pursuant to section 32 or section 33” and substitute “to a carer pursuant to **section 36B or 36C**”. 20

### Section 240

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

Subsection (9): omit “returns of income supplied by” and substitute “income of”. 25