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**THE PARLIAMENT OF THE COMMONWEALTH OF  
AUSTRALIA**

**HOUSE OF REPRESENTATIVES**

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**CHILD SUPPORT LEGISLATION AMENDMENT BILL 1994**

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**SUPPLEMENTARY EXPLANATORY MEMORANDUM**

**(Amendments and new clause to be moved on behalf of the Government)**

(Circulated by the authority of the Treasurer  
the Hon. Ralph Willis MP.)

## **Child Support Legislation Amendment Bill 1994**

### **General Outline and Financial Impact of the Amendments.**

The amendments will amend the Child Support Legislation Amendment Bill 1994 to:

1. change the date of commencement of its provisions; and
2. overcome an unintended outcome in one of the proposed changes concerning collection of arrears after a private payment arrangement fails or a payee, having previously asked that the liability no longer be enforced, wishes to have the liability enforced again.

The delay in the commencement date to the date of the Royal Assent (rather than 1 January 1995) will mean that the added flexibility sought by the introduction of the changes will be delayed by around 6 to 8 weeks. One measure is designed to safeguard DSS clients who enter into child support agreements and to minimise social security outlays. The delay will have an impact on those savings, but, because of the time of year and the shortness of the delay, it will be very small.

Amendment (2) does not change the original thrust of the proposal to collect arrears in these cases; it facilitates collection of unpaid amounts for a shorter period without the need for a further application.

### **Summary of Proposed Changes**

The first amendment to the Bill to be moved by the Government changes the commencement date of the provisions contained in Part 2 and Division 3 of Part 3 of the Bill to the date of the Royal Assent. To not do so will mean these changes will be retrospective in effect and this is considered inappropriate.

The second amendment will ensure that a payee will always be able to recover any unpaid amounts from the most recent 3 months notwithstanding their application is for up to 9 months. A payee must be able to show exceptional circumstances existed where up to 9 months is claimed. If they cannot, the Bill presently requires that the application be refused by the Registrar.

However, the Registrar is otherwise required to accept without question an application for the collection of unpaid arrears if the period is the

most recent 3 months. Rather than having the payee re apply for collection of unpaid amounts for that period the amendment allows the Registrar to decide to grant the application for the most recent 3 months if he is satisfied that unpaid amounts in that shorter period are payable.

A decision to not grant an application for the 9 month period because of the absence of exceptional circumstances and a decision to not grant an application for the most recent 3 month period are both defined as appealable refusal decisions and therefore subject to the existing objection provisions contained in the Principal Act.

Clauses involved in the Amendments
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Clause 2 is substituted with a new clause making the commencement day for all provisions the date of the Royal Assent. Section 38 of the Principal Act has 2 new subsections added. For technical timing reasons subsection 38(3) commences immediately after subsection 38(2).

Clause 20 is amended to make all the new decisions being made by the Registrar in this provision appealable refusal decisions and the subject of an objection right.

Clause 21 has the existing subsection 28A(5) substituted with a new subsection which requires the Registrar to grant an application for arrears for up to 9 months if exceptional circumstances exist. If they do not exist, and he is satisfied that amounts remain unpaid in the most recent 3 months and they are payable, he must treat the application as being for the most recent 3 months and grant it. Only where there are no exceptional circumstances and no unpaid amounts are payable will the application be refused.

Clause 23 has the existing subsection 39A(6) substituted with a new subsection which requires the Registrar to grant an application for arrears for up to 9 months if exceptional circumstances exist. If they do not exist, and he is satisfied that amounts remain unpaid in the most recent 3 months and they are payable, he must treat the application as being for the most recent 3 months and grant it. Only where there are no exceptional circumstances and no unpaid amounts are payable will the application be refused.



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