

To whom it may concern,

When Professor Parkinson laid out in his final report from the senate enquiry titled "Every Picture Tells A Story" that the current child support scheme was fundamentally flawed, this should have instigated urgent changes to the scheme.

I don't now understand, if the proposed changes were not that urgent, why is there such a rush on this enquiry. I first heard of this most recent enquiry on the 20<sup>th</sup> September and just 2 days to respond, so if this seems a little rushed that is the reason why.

### s34A

I have at the moment an ongoing concern with CSA about their application of s34A of the Child Support (Assessment) Act 1989, (the act) and their dealing with an objection in regards to this concern.

Section 34A of the act is heavily flawed, and that flaw is in favour of the parent that holds out the longest in submitting an Income Tax Return (ITR), especially in a shared care situation where both parents are liable parents as is my case, and as the Parental Responsibility Bill promotes.

This small part of the legislation, despite its flaws get no mention in these proposed changes, except where referral of another section is to s34A. Considering s34A's impact on CS assessable income, I find this totally unacceptable.

Child support needs to be assessed using both parents incomes from the same financial year, otherwise the act fails itself, you cant use one parents income from the previous financial year and offset that against the other parents income from the current financial year.

Putting aside the obvious failure of CSA to follow this piece of legislation in my case, and the way the Objections Team dealt with my objection, or didn't actually deal with it as the case is, s34A needs fixing and needs fixing urgently.

### **Bring CS into the 21<sup>st</sup> century**

The current system of assessments is based on late 1980's where few had computers or access to the internet. The methods utilised include slow transfers of data from the ATO to CSA, and then further delays by CSA inputting this data into their system (CUBA) which means it can take up to 3 weeks before a new assessment is issued post ITR being received by the ATO.

s34A(2) of the act says "*As soon as practicable after the tax assessment is made, the Registrar must assess under this Act the annual rate of the child support payable by the liable parent*" which in my opinion, does not happen for the preceding reasons.

Centrelink currently have a system whereby recipients of welfare payments input online their gross income earned during the previous fortnight and then get an instant response advising them of their next welfare payment for the next fortnight.

The child support scheme (scam) current system is to wait for paying parents to input their ITR to the ATO then to re-assess the whole previous period. This is one area where parents fall into debt with CS that could be remedied with a similar system to Centrelink's, whereby both parents advise CSA on a fortnightly basis of income earned in the previous fortnight, and receive an on the spot assessment for the next fortnight.

I don't understand the original intent behind s34A but I am fairly certain the legislators didn't intend for it to be a method of debt creation, which is all it currently succeeds in instigating.

For a small cost in IT work, and considering the system is very much already working at Centrelink, and that is another Government Agency, this could be introduced quite easily. The system might need amending to allow for those who do not pay taxes as PAYE but who input a BAS on a quarterly basis.

Dump the following for [new s34A](#)

### **34A Registrar must make assessment when new taxable income figure is available**

#### *Application*

- (1) This section requires the Registrar to assess the rate of child support payable in some cases if:
  - (a) child support is payable by a liable parent to the carer entitled to child support for a child for a day in a child support period (the *earlier period*); and
  - (b) during the earlier period, an assessment (the *tax assessment*) is made under the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997* of the taxable income of the liable parent or the carer for the latest year of income (the *last year*) that ended after the start of the earlier period.

#### *Registrar must make assessment using new taxable income figure*

- (2) As soon as practicable after the tax assessment is made, the Registrar must assess under this Act the annual rate of the child support payable by the liable parent to the carer for the child for days in a child support period (the *later period*) starting on the first day of the next named month (after the named month in which the Registrar makes the assessment).

*No assessment needed if tax assessment is for carer and carer's taxable income could not affect child support assessment*

- (3) This section does not require the Registrar to make an assessment if:
  - (a) the tax assessment relates to the carer; and
  - (b) the Registrar calculates that the sum of the carer's taxable income and supplementary amount for the last year could not affect the rate of child support payable to the carer for a day in the later period.

*No assessment needed if adjusted income amount or child support rate fixed by other means*

- (4) This section does not require the Registrar to make an assessment if the adjusted income amount, or the rate of child support payable, for the first day of the next named month is to be worked out without reference to the actual taxable income of the person the tax assessment relates to for the last year, because of:
- (a) a child support agreement between the liable parent and carer; or
  - (b) a determination under Part 6A (Departure from administrative assessment of child support); or
  - (c) an order made by a court under this Act.

*No assessment needed if new child support period would start before first day of next named month*

- (5) This section does not require the Registrar to make an assessment if the earlier period will end before the end of the earliest named month in which it is practicable for the Registrar to make the assessment mentioned in subsection (2).

Note: In this case, the Registrar must use the information from the tax assessment to make an assessment for the period starting immediately after the end of the earlier period (unless the information is not relevant to an assessment, because of an agreement, determination or order). See section 34C.

#### **New 34A Registrar must make assessment only when new taxable income figure is available <Insert “from both parents”>**

*Application*

- (1) This section requires the Registrar to assess the rate of child support payable <delete “in some cases”> if:
- (a) child support is payable by a liable parent to the carer entitled to child support for a child for a day in a child support period (the **earlier period**); and
  - (b) during the earlier period, an assessment (the **tax assessment**) is made under the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997* of the taxable income of the liable parent or the carer for the latest year of income (the **last year**) that ended after the start of the earlier period.

*Registrar must make assessment using new taxable income figure<insert “s for both parents”>*

- (2) As soon as practicable after <delete “the tax assessment is made”><insert “Both tax assessments are made”>, the Registrar must assess under this Act the annual rate of the child support payable by the liable parent to the carer for the child for days in a child support period (the **later period**) starting on the first day of the next named month (after the named month in which the Registrar makes the assessment).

*<delete “No assessment needed if tax assessment is for carer and carer’s taxable income could not affect child support assessment”>*

<Delete “(3) This section does not require the Registrar to make an assessment if:

- (a) the tax assessment relates to the carer; and
- (b) the Registrar calculates that the sum of the carer's taxable income and supplementary amount for the last year could not affect the rate of child support payable to the carer for a day in the later period.

*No assessment needed if adjusted income amount or child support rate fixed by other means">*

<insert "(3) The Registrar must also re-assess the previous financial year based on both parents assessments (*the tax assessments*) for that financial year and calculate any over or under assessment created in the previous financial year.">

- (4) This section does not require the Registrar to make an assessment if the adjusted income amount, or the rate of child support payable, for the first day of the next named month is to be worked out without reference to the actual taxable income of the person the tax assessment relates to for the last year, because of:
  - (a) a child support agreement between the liable parent and carer; or
  - (b) a determination under Part 6A (Departure from administrative assessment of child support); or
  - (c) an order made by a court under this Act.

*No assessment needed if new child support period would start before first day of next named month*

<Delete "(5) This section does not require the Registrar to make an assessment if the earlier period will end before the end of the earliest named month in which it is practicable for the Registrar to make the assessment mentioned in subsection (2).

Note: In this case, the Registrar must use the information from the tax assessment to make an assessment for the period starting immediately after the end of the earlier period (unless the information is not relevant to an assessment, because of an agreement, determination or order). See section 34C.>

So it reads

### **34A Registrar must make assessment when new taxable income figure is available from both parents**

#### *Application*

- (1) This section requires the Registrar to assess the rate of child support payable if:
  - (a) child support is payable by a liable parent to the carer entitled to child support for a child for a day in a child support period (*the earlier period*); and
  - (b) during the earlier period, an assessment (*the tax assessment*) is made under the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997* of the taxable income of the liable parent or the carer for the latest year of income (*the last year*) that ended after the start of the earlier period.

*Registrar must make assessment using new taxable income figures for both parents*

- (2) As soon as practicable after both tax assessments are made, the Registrar must assess under this Act the annual rate of the child support payable by the liable

parent to the carer for the child for days in a child support period (the *later period*) starting on the first day of the next named month (after the named month in which the Registrar makes the assessment).

- (3) The Registrar must also re-assess the previous financial year based on both parents assessments (*the tax assessments*) for that financial year and calculate any over or under assessment created in the previous financial year.
- (4) This section does not require the Registrar to make an assessment if the adjusted income amount, or the rate of child support payable, for the first day of the next named month is to be worked out without reference to the actual taxable income of the person the tax assessment relates to for the last year, because of:
  - (a) a child support agreement between the liable parent and carer; or
  - (b) a determination under Part 6A (Departure from administrative assessment of child support); or
  - (c) an order made by a court under this Act.

*No assessment needed if new child support period would start before first day of next named month*

## **PAYE & BAS fortnightly v 15 Month Assessments**

I sincerely believe that the introduction of a much fairer system is necessary, nobody earns income on a 15 month basis, so that part of the system needs discarding ASAP, exchanged for annual assessment periods in line with a financial year. The majority of Australians earn a PAYE income, so the fairest system would have to be fortnightly assessments exactly as Centrelink assess welfare payments.

## **Other Areas**

### *Child Support Regulation 8A*

A month should be calculated at 1/12 of the annual rate, not an average of the number of days in a year divided by the average number of days in a month. The whole of s8A of the child support regulations is a farce, designed to extract every last cent and then some for every day of child support.

In a normal year, a day is 1/365<sup>th</sup> of a year, in a leap year a day is 1/366.

There are always 52.14286 weeks in a year, no more no less. January, March, May, July, August, October and December always have 31 days, April, June, September and November always have 30 days.

### *Previous income v Current income*

I am going to example here from my first year of CS payments, which were at the time based on 2 year old income, and since my CS obligations commenced on 29 June, this is a fairly accurate example, I have 3 children, so according to the act, I should pay 32% CS on my annual income, yet in my first year, I paid 38% on my earnings for that financial year. For this reason, all previous assessment periods need to be reassessed at the time ITR's become available for that financial year.

### *The guide v Legislation*

There are areas where the online guide at [www.csa.gov.au](http://www.csa.gov.au) fails in respect of the relevant legislation.

The first is at [http://www.csa.gov.au/guide/4\\_1\\_4.htm](http://www.csa.gov.au/guide/4_1_4.htm) where the CSA guide says what is a valid objection, the CS acts make no mention of an objection having validity, and most people would not object to a decision without feeling they had a valid reason for objecting. When I placed my objection, I was told CSA had followed the legislation, which is now blatantly obvious to me that they did not.

### *28 Days*

Its high time the CSA realised its true clients are the children, and setting time limits on anything about a decision by the CSA is letting down the children, if assessments can be 15 months, then you need at least 16 months to be able to evaluate how that previous assessment worked out in relation to the income earned during that period.

### *5%*

The requirement of some areas of COA have a 5% restriction on them, which is a joke, when 1% of your CS income can affect how well you can care for your children when in your care. This also applies to income elections, the requirement is that your income must reduce by 15%, when a 1% reduction can affect, and yet there is no requirement for a payee parent to notify of increases in income. These restrictions need to be dropped from the acts.

I sincerely believe that a failure to make further amendments to the proposals, other than just introducing Professor Parkinson's proposed formulae, as outlined above will only further highlight the discrimination against payer parents that currently exists in both the legislation and the CSA, and further outline how this government has failed the children of Australia from separated families.

I reserve the right to make further comment should it be called for by this committee

Ross C Mitchell