0.1. The Howard Legacy, Child Support Agreements

0.1.1. As we get closer to Stage 3 [the new formula] of the "reforms" to child support by Howard, we may well have thought that The Cleaner [Professor Parky] had expended all his nasties [eg "Deadbeats to the Grave Initiative"] at Stage 2 back in 2006. But think again, as the "reforms" to start on 1 July 2008 do not just include a major workover of Part 5 [the formula module].

0.1.2. Indeed the "my poo don't smell" voiced Professor/Cleaner was allowed to remain true to his word via Parliament granting all his wishes [pre Kevin '07] in his Report, and the matter of Child Support Agreements [CSAgreements] is about to become perhaps the most Draconian legislation ever passed by Parliament.

0.1.3. In short, The Cleaner's job was to firstly create thousands of new jobs for blood sucking lawyers [eg the SSAT at $140,000 pa] and secondly to convince the mushrooms they **must** use blood sucking lawyers for all Family Law and Child Support matters, even for **consent**.

0.1.4. But to return to the past, firstly I have always recommended that in order to get access to justice per the Objects of the CSAAct, it is way better to use Part 7 than Part 6. These Objects say:

> *S 4(3) It is the intention of the Parliament that this Act should be construed, to the **greatest extent** consistent with the attainment of its objects:*
> *(a) to permit parents to make **private arrangements** for the financial support of their children; and*
> *(b) to **limit interferences with the privacy** of persons.*

So anyone who has ever dealt with the CSA will read this Object with total amazement, that the truth can be so far from the Object, and the CSA is still afloat [but Cash for Comment does wonders].

0.1.5. The main "Part 7" Head of Power is s 141, which clearly encourages consent per:

> *141 General powers of court*
> *(1) In exercising its powers under this **Act**, a court may do all or any of the following:*
> *(m) make an order by **consent**;*

But while s 141 is in Part 7, it does apply to the Act as a **whole**. But as proof of my assertions that as long as you understand Inherent Jurisdiction and have your Enigma Machine at the ready [the AIAct], you can ignore all the **other** PowerPoint Bullet lists from the Professor to suggest you **can't** go to court anymore. The proof is, to cover its arse Brandy wise, the Govt/Professor has inserted another PowerPoint Bullet list before s 141, per:

> *S. 140A ..... ad. No. 146, 2006*
>
> *140A Simplified outline*
> *The following is a simplified outline of this Division:*
> • *In exercising jurisdiction under this Act, a court has broad powers.*
> • *An amount of child support paid **when there is no liability** to do so **may be recovered** in a court.*

0.1.6. But to even get more specific in Part 7, both Div 4 [departures] and Div 5 [lump sums etc] invite applications by consent, per:

> *S 118(4) Subsection (3) does not apply in relation to an order if:*
> *(a) it is an order made by **consent**; and*

(b) the carer entitled to child support concerned is not in receipt of an income tested pension, allowance or benefit.

S 126(2) Subsection (1) does not apply in relation to an order if:
*(a) it is an order made by **consent**; and*
(b) the carer entitled to child support concerned is not in receipt of an income tested pension, allowance or benefit.

This is very convincing indeed given that 95% of all property orders are by consent and s 79 does not **specifically** mention consent.

0.1.7. So if you have read the Free Extract regarding Division 12A, you will see the global plan with **all** the Howard/Parkinson "reforms" to convince the mushrooms they can no longer apply for Consent Orders [property, child matters or child support] **without** using a blood sucking lawyer.

0.1.8. But in the case of CSAgreements Howard/Parky went way way further into the nastiest of nasties, as you will see. But first please recap on W & C [2002] FMCA fam 166 above, after which Ruddock totally **axed** the ability to register a CSAgreement in a court [s 63E of FLAct], meaning anyone who had not already registered their CSAgreement could no longer contest [certain aspects of] it in a court [see s 136, but see also s 141 for the global invitation].

0.1.9. So the writing was on the wall for a Parky Attack on justice, starting with amendments to Part 6 itself to create **two** types of CSAgreements, with a mandatory requirement to **use** blood sucking lawyers if you want a Ridgy Didge CSAgreement. I guess the only way that might not offend the Constitution [ie the Pre Conditions of Harris & Caladine] is per, as I say, why shoot yourself in the foot with a CSAgreement when you can simply get a consent order? Here is the amended version to start 1 July 2008:

80C Making binding child support agreements
*(1) An agreement is a **binding** child support agreement if:*
(a) the agreement is binding on the parties to the agreement in accordance with subsection (2); and
(b) the agreement complies with subsection 81(2).
*(2) For the purposes of subsection (1), an agreement is binding on the parties to the agreement if, **and only if**:*
(a) the agreement is in writing; and
(b) the agreement is signed by the parties to the agreement; and
*(c) the agreement contains, in relation to each party to the agreement, a statement to the effect that the party to whom the statement relates has been provided, before the agreement was signed by him or her, as certified in an annexure to the agreement, with **independent legal advice from a legal practitioner** as to the following matters:*
(i) the effect of the agreement on the rights of that party;
(ii) the advantages and disadvantages, at the time that the advice was provided, to the party of making the agreement; and
*(d) the annexure to the agreement contains a **certificate signed by the person providing the independent legal advice** stating that the advice was provided; and*
(e) the agreement has not been terminated under section 80D; and
(f) after the agreement is signed, either the original agreement or a copy of the agreement is given to each party.

0.1.10. So you might say well, who cares, as nobody in their right mind would **want** a CSAgreement made by blood sucking lawyers when they could seek a Consent Order **without** blood sucking lawyers. Agreed, but the news gets worse. Even if you have a totally legal CSAgreement, obtained way back when Parky was busy devising Towards Healing to save the Catholic Church

from its pedophile victims, it **will** now be terminated [with extreme prejudice].

0.1.11. That is because of Item 74 of the Amending Act which says:

> *74 Registrar to review all agreements*
> *(1) Before 1 July 2008, the Registrar **must**:*
> *(a) review **every** child support agreement made **before** that day that will be in force:*
> *(i) immediately before that day; or*
> *(ii) **after** that day; and*
> *(b) **determine** in writing whether each such agreement is:*
> *(i) to be taken to be a **binding** child support agreement; or*
> *(ii) to be **terminated**.*
>
> *(3) After the Registrar makes a determination under subitem (1) or (2), the Registrar must serve notice in writing of the determination on each of the parties to the agreement.*
> *(4) The notice must include, or be accompanied by, a statement to the effect:*
> *(a) that the party may, subject to the Registration and Collection Act, **object** to the decision (the original decision); and (b) that if the party is aggrieved by a later decision on an objection to the original decision (no matter who lodges the objection), the party may apply, subject to that Act, to the **SSAT** for review of the later decision.*
> *(5) A contravention of subitem (4) in relation to a decision does **not** affect the validity of the decision.*

0.1.12. So this is what Howard said could **not** be done for David Hicks, ie make legislation retrospective, but in this case **all** will be terminated as the test to be applied is "does it fit the **new** definition of a binding agreement?", and of course even those CSAgreements made before with the "help" of lawyers did **not**

have a certificate. And of course there is the hoop-la about the SSAT paper tiger right of "appeal", to make it warm & cuddly.

0.1.13. Then there is another **whole new Part**, called Part 7A, and I will let Parky's PowerPoint list explain, per:

Part 7A—Notional assessments
Division 1—Preliminary
146A Simplified outline

The following is a simplified outline of this Part:

- *If the Registrar accepts a certain kind of child support agreement, or the court makes a certain kind of order, the Registrar must make a provisional notional assessment of the annual rate of child support that would be payable for a day in a child support period if child support were payable under Part 5 instead of under the agreement or order.*

- *The notional assessment is used in the maintenance income test in working out a person's Part A rate of family tax benefit under the A New Tax System (Family Assistance) Act 1999.*

Division 2—Notional assessments
146B Provisional notional assessments

*(2) The Registrar **must** make a provisional notional assessment of the annual rate of child support that **would** be payable for a child for a particular day in a child support period, by the liable parent to the carer entitled to child support, **if** that annual rate were payable under **Part 5** (taking into account any relevant determination under Part 6A, or any relevant order under Division 4 of Part 7) for the child for that day **instead** of under the agreement or order.*

0.1.14. So this all makes clear why the s 161 look alike of Clause 4 was inserted into the Amending Act, to "give" the CSR wide powers of privacy invasion.

0.1.15. Of course, as for s 161, a closer reading says he does **not** have any open slather at all, so I am alerting you at this point **to warn you of what will happen** to those with a CSAgreement in the days come [if not already], because on 15 April 2008 I had my first call from one such victim. I have yet to see the [minimal] paperwork as, **naturally**, these are being done by the normal telephone attack. But this bloke was paying for 10 years by CSAgreement and he now suddenly has both an assessment and a COAT [maybe a RICAT as he was never asked to party in COAT] saying child support increased by 400%.

0.1.16. And yes, they **did** contact his bank, his accountant [and possibly his ex mother in law?] to do their clandestine COAT [or maybe it was a CTE, CTP, Full & Frank or whatever]? So one can assume that was the CSR's interpretation [but will Kevin '07 approve] of Howard's Clause 4. Be that as it may, Clause 4 itself self destructs on 1 July 2008, but what odds am I offered that the CSR will not just **keep** using it from then on?

0.1.17. But if you thought the abuse ends there you were mistaken. As I said, Howard ploughed **all** Parky's Suggested Rorts into the amendments, so it is no surprise with Mr Riethmuller being a major "consultant" to Parky that he opened his eyes to the wonders of Capitalising Child Support to Trust Funds. The Free Extract above this explains the greed that pushes blood sucking lawyers to Capitalise Child Support [convert to Lump Sum] under Div 5 of Part 7 of the CSAAct, whack it into a Trust Fund and charge the lot as fees to Buttercup [or in the case of Slithery Slattery, just **steal** it].

0.1.18. But such a blood sucking lawyer comes face to face with certain "public policy" restraints which say the essence of

Child Support is a **periodic** payment, same as Centrelink, rather than giving Buttercup a Lump Sum [which she will probably spend on an overseas Trip or on the Pokies, and come back for more Centrelink to feed the kids].

0.1.19. For such reasons s 128 was part of the 1989 format of the CSAAct, which put severe restrictions on a court awarding Lump Sum Child Support, and the main case explaining this is once again Lindenmyer J in Dwyer & McGuire, per:

> *94. Thus, in such a case, if the court intended to, and by its order provided that, the substituted support should be credited against and count for 100% of the annual rate of child support payable under any relevant assessment, and calculated the lump sum to be paid by the liable parent as substituted support on that basis, the custodian entitled to child support could,* ***after receiving*** *the payment of that sum so calculated, apply to the Registrar under s.128 and thus become entitled, in all probability, to receive,* ***in addition****, 75% of the annual rate under any relevant future administrative assessment. In such a case,* ***the liable parent would effectively be paying twice*** *(or, more accurately, one and three-quarter times) and the custodian entitled to child support would be effectively both "having his or* ***her cake and eating it, too****", which could hardly be regarded just and equitable as between them.*

0.1.20. So Howard has simply zapped s 128 from 1 July 2008 [and a few other impediments mentioned by the Full Courts in Lightfoot & Ivanovich in 1996]. So brace yourselves dear bloke for a fully integrated attack on your money. Remember that lawyers [as COATs] have now, for all intents and purposes, usurped Div 4 of Part 7 via Part 6A, morphing "Departures" [down] to "Change of Assessment" [up]. But Part 6A does not allow lump sum awards, so there needs to be an interface to "real justice" in a court under Div 5 of Part 7.

0.1.21. And I mention elsewhere in the book that in 2006 or so Howard had **already** zapped s 1116 of the SSAct, which **used** to say that if Buttercup got a lump sum then that was "apportioned" over the years applicable and the Maintenance Income Test applied to reduce her FTB, which was an impediment to being able to convince Buttercup to actually go for Lump Sum.

0.1.22. So the groundwork has been set at the COAT for all manner of new terms like CTE, CTP, F&F etc to depart [change] upwards, with seemingly the only "appeal" being to lawyer mates in SSAT. Then once that Dog & Pony show is over [at the expense of the Taxpayer] Buttercup will be "assisted" to file & serve Div 5, little knowing that after a day or so in court as we saw in Parsons, she will **get** the lump sum but she will then get the bill for poncing around in court, and it will miraculously be the **exact same amount** as the lump sum. And of course she has no options about paying as the lump sum went straight to the lawyer's Trust Fund, and the next day to his pocket.

0.1.23. No wonder lawyers describe lawyering as "like money growing on trees".