## **Collection and enforcement** Parents can:

- make a private collection arrangement, or
- ask Services Australia to collect child support payments.

Private collection arrangements are only recommended where the assessment is based on reliable incomes and the paying parent is likely to pay.

If you have a private collection arrangement, **Centrelink** will assume that you are receiving all of your child support payments, and calculate your FTB Part A accordingly. It will also be your responsibility to take enforcement action if any payments are not made.

If you are not receiving the payments, you can ask Services Australia to collect the payments. Services Australia can collect child support by arranging wage deductions, intercepting tax refunds, collecting from a third party (such as a bank or insurance company), intercepting the proceeds of sale of property, preventing overseas travel, or issuing enforcement proceedings in court.

You can also take court action to enforce the payment of a child support debt. Services Australia can apply penalties for late payment or non-payment of child support.

In limited circumstances, the paying parent can apply to a court for a stay order to prevent Services Australia from collecting payments.



# What happens when my child turns 18?

A child support assessment can be extended to the end of the school year if the child is attending secondary school when they turn 18. A request to extend the assessment **must be made when the child is 17**, or the amount of FTB Part A payable for the adult child may be reduced.

### Adult child maintenance

Parents may continue to have a legal duty to financially support adult children if they are unable to fully support themselves because they are completing their education, or they have a disability. For more information, see our brochure 'Adult Child Maintenance'.

## Non-parent carers

Non-parent carers, such as grandparents, foster carers, and kinship carers, may be eligible to receive child support from one or both parents, depending on the level of care they provide. To apply for a child support assessment, non-parent carers should call the Services Australia Child Support Enquiry Line on 131 272 or apply online at <u>www.</u> <u>servicesaustralia.gov.au/child-support-assessment.</u>

## Overseas child support

Australia has reciprocal arrangements with many countries for the collection of child support overseas. Arrangements with each country differ, and some countries have better collection arrangements than others. Disputes about parentage can be more difficult to resolve if one of the parents lives overseas.

Where Australia does not have reciprocal arrangements with the country where one parent is living, there may still be options for the receiving parent to obtain child support.

Services Australia can be asked to collect child support payments ordered by a court in another country. If you dispute the amount that you are required to pay, you should seek legal advice as this is a complex area of law.

# We're here to help

Call the Legal Services Commission on 8111 5576 or email <u>childsupportunit@lsc.sa.gov.au</u> to make an appointment for free and confidential legal advice.

# Legal Helpline 1300 366 424 Child Support Advice 8111 5576

## Legal Services Commission Offices

Port Adelaide Office

Port Adelaide 5015

Telephone 8111 5460

Port Augusta Office

34 Flinders Terrace

Whyalla Office

Whyalla 5600

17A Forsyth Street

Telephone 8620 8500

National Relay Service

nrschat.nrscall.gov.au

Internet Relay users visit

01.24

Port Augusta SA 5700

Telephone 8686 2200

263 St Vincent Street

- Adelaide Office
  159 Gawler Place
  Adelaide 5000
- Adelaide 5000 Telephone 8111 5555
- Elizabeth Office
  Suite 2 Windsor Building
  1 Windsor Square
  (off Playford Boulevard)
  Elizabeth Shopping Centre
  Elizabeth 5112
  Telephone 81115400
- Noarlunga Office
  Noarlunga House
  Ramsay Place
  Noarlunga Centre 5168
  Telephone 8111 5340

# Do you need help calling us?

- Translating and Interpreting 
  · National Relay Service
  Service 131450
  SMS Relay 0423 677767
- National Relay Service
  TTY users phone 133 677
- National Relay Service
  Speak and Listen users
  phone 1300 555 727

# Visit us online at lsc.sa.gov.au

This information is general and not a substitute for legal advice. The Legal Services Commission provides free legal advice for most legal problems.

Legal Help for all South Australians

# Legal Reference Guide

# Child Support



### Child support scheme

Under Australian law, separated parents have a duty to provide a proper level of financial support for their children. The child support scheme provides a flexible way of ensuring that children are supported by their parents, often with the assistance of government benefits.

To apply for a child support assessment, call the **Services Australia Child Support Enquiry Line** on 131 272 or apply online at <u>www.servicesaustralia.gov.au/child-support-</u> <u>assessment</u>.

Proof of parentage must be provided before an application can be accepted.

### Parentage Disputes

DNA parentage testing can resolve parentage disputes. Either parent can apply to a court for orders about parentage and child support. If a person is found not to be a parent, a court may order repayment of any child support they have paid.

For free legal advice about parentage disputes, call the Legal Services Commission on 8111 5576.

### What does Services Australia do?

Services Australia is the federal government department that manages Centrelink, Medicare, and child support payments. Services Australia works out how much child support should be paid and can collect and transfer payments.

Child support payments can affect the amount of Family Tax Benefit Part A that is payable. To claim FTB Part A for a child, a person must care for their child at least 35% of the time.

If a parent wishes to receive more than the minimum amount of FTB Part A, they **must take action to obtain child support** from the other parent. A Centrelink social worker can grant an exemption from this requirement in some situations, including in circumstances of family violence.

For more information and legal advice about seeking an exemption, **call the Legal Services Commission on 8111 5576.** 

## Child support assessment

The child support assessment is based on either:

- · a mathematical formula set out in the law, or
- a child support agreement made by the parents.

## Child support formula

The child support formula is complex, and is based on: **Parental Income** – Taxable incomes are usually the starting point for the calculations. Tax returns should be lodged on time.

An amount is deducted to allow each parent to support themselves, and further adjustments are made if either parent supports other biological or adopted children. The combined income of the parents establishes the costs of raising children in a family with that level of income.

**Costs of Children** – Australian research has been used to create a <u>'Costs of Children' table</u>. The costs vary with the number and ages of the children.

Costs of the children are shared between the parents:

- in proportion to their individual incomes, and
- after adjustments are made for the care provided by each parent.

**Level of Care** – Providing care for children is counted as contributing to the costs of raising children, just as providing periodic payments of child support is a contribution to their costs.

The following table shows how care (nights per year) is converted into a percentage of the child's costs.

Nights per year	CSA Terminology	Percentage of costs met through care
0-51	Less than Regular Care	0%
52-127	Regular Care	24%
128-237	Shared Care	25-75% (sliding scale)
238-313	Primary Care	76%
314-365	Greater than Primary Care	100%

### What if the assessment is not correct?

Level of Care – Services Australia should be notified of changes in care arrangements as soon as possible. If you receive child support and family assistance payments, either Services Australia or Centrelink can work out the care percentages that will be used.

**Parental Income** – If the income used in the assessment is not correct, it can be changed by:

- lodging an Estimate of Income, or
- applying for a Change of Assessment in Special Circumstances.

**Special circumstances** – An application to change your assessment can be made for any of the following reasons:

- High costs of contact
- Special needs of the child
- Agreed education costs (eg private school fees)
- Income or property of the child
- Income or property provided for the child
- High child care costs
- Special self support expenses
- Income, earning capacity, or property of either parent is not accurately reflected in the assessment
- Legal duty to support another person

• Responsibility to maintain other children living with you If a change is needed for a period that is more than

18 months in the past, a court application will be necessary. A court can give leave (permission) to change an assessment more than 18 months old, but not more than 7 years old.

What if I disagree with a decision? – You can object to decisions made by Services Australia. If you are dissatisfied with an objection decision, you can appeal to the Administrative Appeals Tribunal (AAT). A court can also review AAT decisions, but only on a question of law.

**Strict time limits apply to each step in this process.** Call the Legal Services Commission on 81115576 for free legal advice about child support objections and appeals.

### **Child support agreements**

As an alternative to the child support formula, some parents can reach a private agreement about child support payments. Child support agreements can include periodic payments, non-cash payments or lump sum payments, but only periodic payments can be collected by Services Australia.

There are two types of child support agreements:

### Limited Child Support Agreements

These agreements must be in writing, signed by both parents, and provide for at least as much child support as would be payable under a child support formula assessment. Limited Agreements can be terminated by either parent after 3 years, or sooner in some cases. They can also end by agreement or court order.

### **Binding Child Support Agreements**

These agreements can be for less than, or more than, the amount payable under a child support formula assessment. If the agreement provides for less child support than the amount payable under the formula, FTB Part A will be calculated according to what would be payable under the formula, not under the agreement.

Binding Child Support Agreements can also include lump sum payments, but special requirements apply. Each parent must obtain independent legal advice and the agreement must include certificates from their lawyers stating that advice has been given about the effect of the agreement on the rights of the individuals, and the advantages and disadvantages of entering the agreement. Binding Child Support Agreements can be ended by a further Binding Child Support Agreement or they can be set aside by a court in exceptional circumstances.

Parties should disclose all relevant financial information. A court can set aside an agreement obtained by fraud, coercion or failure to disclose material information.

It is important to understand the effect of a child support agreement on Family Tax Benefit Part A payments. Before signing a child support agreement, **call 8111 5576 for free** legal advice about child support agreements.