CHILD SUPPORT SCHEME

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

To make an application for a child support assessment, telephone DHS-Child Support on 131 272 or apply online at https://childsupportapplication.humanservices.gov.au/

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

Parentage Disputes

DNA parentage testing can be used to resolve parentage disputes. If necessary, either parent can apply to a court for orders about parentage and child support.

If a payer is found not to be a parent of the child, a court may order repayment of any child support that has been paid.

Call the Child Support Help Line on 8111 5576 for free advice.

WHAT DOES DHS DO?

The Department of Human Services - Child Support works out how much child support should be paid and can collect and transfer payments. The Department of Human Services manages Centrelink and Medicare as well as Child Support.

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

A parent who receives more than the minimum amount of FTB (A), must take action to obtain child support from the other parent. A Centrelink Social Worker can grant an exemption from this requirement in family violence situations.

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:

Parents' Incomes – 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 ‘Costs of Children’ table. 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.
**CHILD SUPPORT**

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

**WHAT IF THE ASSESSMENT IS NOT CORRECT?**

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

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 (e.g. 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 resident children

If a change is required for a period that is more than 18 months in the past, a court application is required. A court can give permission (leave) to change an assessment that is more than 18 months old, but not more than 7 years old.

What if I disagree with a decision? – You can object to many decisions made by DHS–Child Support. If you are dissatisfied with an objection decision, an appeal can be made to the Administrative Appeals Tribunal. A court can review AAT decisions, but only on a question of law.

Call the Child Support Help Line on 8111 5576 for free advice.

**CHILD SUPPORT AGREEMENTS**

There are two types of child support agreements:

**Limited Child Support Agreements**

These agreements must be in writing, signed by both parties, 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 party after 3 years, or sooner in some cases. They can also be terminated by agreement or by 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. 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. Parties should disclose all relevant financial information. A court can set aside an agreement obtained by fraud, coercion or failure to disclose material information. 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. It is important to understand the effect that a child support agreement will have on Family Tax Benefit (A) payments.

Legal advice should be obtained before signing a child support agreement. Call the Child Support Help Line on 8111 5576 for free advice.

**COLLECTION AND ENFORCEMENT**

Parents can
- make a private payment arrangement, or
- ask DHS–Child Support to collect payments.

DHS encourage private collection arrangements, but this is only recommended in cases where the assessment is based on reliable incomes and the payer 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 (A) accordingly. If you are not receiving the payments, you can ask DHS-Child Support to collect the payments.

DHS–Child Support can collect child support by arranging wage deductions, intercepting tax refunds, collecting from a third party (e.g. a bank or insurance company), intercepting the proceeds of sale of property, preventing overseas travel, or issuing enforcement proceedings in court. A payee can also take court action to enforce the payment of a child support debt. DHS can apply penalties for late payment or non-payment of child support.

In limited circumstances, a stay order can be sought from a court to prevent DHS from collecting payments.
OVERSEAS CHILD SUPPORT

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

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

DHS-Child Support can be asked to collect payments of child support that has been ordered by a court in another country. If you dispute the amount that you are required to pay, you should seek legal advice.

This is a complex area of law and legal advice should be obtained in each individual case.

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 s/he turns 18. A request to extend the assessment must be made before the child turns 18. If this action is not taken, the amount of Family Tax Benefit (A) payable for the adult child may be reduced.

ADULT CHILD MAINTENANCE (OVER 18)

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 pamphlet ADULT CHILD MAINTENANCE.

WHERE TO GET HELP

Call the Child Support Help Line 8111 5576 or 1300 366 424, or email childsupportunit@lsc.sa.gov.au.