



Social Services Legislation Amendment (Child Support Measures) Act 2023

No. 27, 2023

**An Act to amend the law relating to child support,
and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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No. 27, 2023

An Act to amend the law relating to child support, and for related purposes

[Assented to 23 June 2023]

The Parliament of Australia enacts:

1 Short title

This Act is the Social Services Legislation Amendment (Child Support Measures) Act 2023.

No. 27, 2023 Social Services Legislation Amendment (Child Support Measures) Act 1
2023

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	23 June 2023
2. Schedule 1, Parts 1 and 2	The first 1 January or 1 July to occur after the day this Act receives the Royal Assent.	1 July 2023
3. Schedule 1, Part 3	The first 1 July to occur after the day this Act receives the Royal Assent.	1 July 2023

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Part 1—Departure authorisation certificates

Child Support (Registration and Collection) Act 1988

1 Subsection 4(1)

Insert:

departure authorisation certificate has the meaning given by subsection 72K(1).

2 Paragraph 72L(3)(a)

Repeal the paragraph, substitute:

(a) both:

- (i) the Registrar is satisfied that, if the certificate is issued, it is likely that, within a period that the Registrar considers appropriate, the Registrar will be required by subsection 72I(1) to revoke the departure prohibition order in respect of the person; and
- (ii) the person has given security under section 72M for the person's return to Australia; or

3 Paragraph 72L(3)(b)

Omit “if the person is unable to give such security,”, substitute “in a case where the Registrar is not satisfied as mentioned in subparagraph (a)(i) or the person is unable to give such security—”.

4 Application of amendments

The amendments of section 72L of the *Child Support (Registration and Collection) Act 1988* made by this Part apply in relation to applications made on or after the commencement of this item for a departure authorisation certificate.

Part 2—Extending employer withholding

Child Support (Registration and Collection) Act 1988

5 Subsection 43(1)

Repeal the subsection, substitute:

- (1) This section applies if:
- (a) an amount payable under or in relation to any of the following liabilities (the *deductible liability*) is due by the payer to the Commonwealth:
 - (i) an enforceable maintenance liability;
 - (ii) a liability to pay a child support debt;
 - (iii) a liability to pay a child support related debt;
 - (iv) a carer liability; and
 - (b) the payer is an employee.

Note 1: For *employee*, see subsection 4(1).

Note 2: For the application of this Part to those engaged under a contract for services, see section 65AA.

6 Subsection 43(3)

Repeal the subsection, substitute:

- (3) Subsection (2) does not apply in relation to a payer of an enforceable maintenance liability if, under section 44, the particulars of the entry in the Child Support Register in relation to the enforceable maintenance liability contain a statement that employer withholding does not apply in relation to the enforceable maintenance liability.

Note: If subsection (2) does not apply in relation to an enforceable maintenance liability of a payer because of this subsection, that subsection also does not apply in relation to any other deductible liability of the payer.

7 Paragraph 45(2)(a)

Omit “an enforceable”, substitute “a registered”.

8 At the end of section 45

Add:

- (4) To avoid doubt, if a notice is in force under this section immediately before either of the following events occur:
- (a) a registered maintenance liability in relation to which the notice was given ceases to be enforceable under this Act;
 - (b) a registered maintenance liability becomes enforceable under this Act that relates to a deductible liability in relation to which the notice was given;
- the notice continues in force under this section on and after the occurrence of the event (subject to any variation or revocation of the notice) as if the notice had been given in relation to:
- (c) in a case where paragraph (a) applies—any liability of the payer, that exists at the time the event occurs, to pay a child support debt that relates to the registered maintenance liability; and
 - (d) in a case where paragraph (b) applies—an enforceable maintenance liability of the payer, being the registered maintenance liability; and
 - (e) in any case—any liability of the payer to pay a child support related debt, or any carer liability of the payer, in respect of which the notice was in force immediately before the event occurs.

Note: The weekly deduction rate will continue to be as specified in the notice immediately before the event occurs, subject to any variation or revocation of the notice.

9 Application of amendments

The amendments of the *Child Support (Registration and Collection) Act 1988* made by this Part apply in relation to a deductible liability (within the meaning of that Act as so amended) whether:

- (a) the payer becomes liable to pay an amount under or in relation to the liability; or
- (b) such an amount becomes due to the Commonwealth; or
- (c) a notice is given under section 45 of that Act in relation to the liability;

before, on or after the commencement of this item.

Part 3—Determining adjusted taxable income

Child Support (Assessment) Act 1989

10 Subsection 58(1)

After “a child support period”, insert “(the *relevant period*)”.

11 Paragraph 58(1)(a)

Omit “the period”, substitute “the relevant period”.

12 After subsection 58(2)

Insert:

Parent not required to lodge a return

(2A) If:

- (a) paragraph (1)(a) applies to the parent; and
- (b) the Registrar is satisfied that the parent is not required, under section 161 of the *Income Tax Assessment Act 1936*, to give to the Commissioner of Taxation a return for the last relevant year of income;

the Registrar may determine that the parent’s adjusted taxable income for the last relevant year of income is the amount under subsection (2B).

(2B) The amount under this subsection is the amount that would be equal to one-third of the annualised MTAW figure for the relevant June quarter in relation to a child support period if that period were to start on 1 January during the parent’s last relevant year of income in relation to the relevant period.

13 Paragraph 58(4)(d)

Omit “child support period”, substitute “relevant period”.

14 Paragraph 58(5)(a)

After “(2),” insert “(2A),”.

15 Subsection 58(5)

Omit “child support period”, substitute “relevant period”.

16 Application of amendments

The amendments made by this Part apply in relation to child support periods starting on or after the commencement of this item.

*[Minister’s second reading speech made in—
House of Representatives on 29 March 2023
Senate on 10 May 2023]*

(37/23)
