

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Social Services

Child Support (Registration and Collection) Act 1988

*Child Support (Registration and Collection) Amendment (Payment Methods)
Regulations 2024*

Authority

The *Child Support (Registration and Collection) Amendment (Payment Methods) Regulations 2024* (Amendment Regulations) is made under section 125 of the *Child Support (Registration and Collection) Act 1988* (the Act) for the purposes of paragraph 113(1)(a) of the Act.

Subsection 33(3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to make a legislative instrument, the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

The Amendment Regulations amend the *Child Support (Registration and Collection) Regulations 2018* (Principal Regulations).

Purpose

The Amendment Regulations amend the Principal Regulations to prescribe new manners of payment of a debt under the Act to Services Australia, for the purposes of paragraph 113(1)(a) of the Act.

Background

The Act provides for the registration and collection of registrable maintenance liabilities, including court orders, court registered agreements, child support assessments and overseas maintenance liabilities from reciprocating jurisdictions.

Section 125 of Act provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters required or permitted by the Act, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Paragraph 113(1)(a) of the Act provides that a debt due to the Commonwealth under the Act in relation to a registered maintenance liability, or in relation to overpaid child support constituted as a carer liability, is payable to the Child Support Registrar in the manner and at the place prescribed by the regulations.

Subparagraph 26(a)(i) of the Principal Regulations prescribes the Human Services Department as a place at which a debt due to the Commonwealth under the Act is payable. For the purposes of the Act and the Principal Regulations, the 'Human Services Department' is Services Australia (see subsection 4(1) of the Act).

The Amendment Regulations will amend subparagraph 26(b)(i) of the Principal Regulations to prescribe more contemporary means of payment.

The Amendment Regulations will minimise the effect of future changes to payment systems by ensuring that Services Australia will no longer be obliged to accept cheques and money orders as payments of debts under the Act, particularly in light of the sharp decline in the use of cheques and money orders, and the services available to process each. The changes do not preclude Services Australia from accepting payment in the form of cheque or money order on a case-by-case basis, where considered appropriate. Services Australia will continue to be able to accept payment by cheque or money order in Australian dollars while cheques remain a valid payment instrument.

The Amendment Regulations also provide greater clarity by specifying the manners of payment that will be accepted by Services Australia for child support debts. They clarify that Services Australia will accept payment in the form of a bank transfer, Visa or MasterCard credit and debit cards, BPAY, and Post Billpay.

The Amendment Regulations is a disallowable legislative instrument for the purposes of the *Legislation Act 2003*.

Details of this instrument are set out in the **Attachment A**.

The instrument is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in **Attachment B**.

Commencement

The Amendment Regulations commence the day after registration on the Federal Register of Legislation.

Consultation

The Amendment Regulations are being made at the request of Services Australia, which has been consulted in relation to the text of the instrument and this Explanatory Statement. Services Australia has advised that the proposed amendments are appropriately adapted to its business requirements, and the needs of stakeholders in the Child Support Scheme (including child support payers).

Impact Analysis

The Office of Impact Analysis was consulted and agreed that an Impact Analysis is not required (OIA ID OIA24-07851).

ATTACHMENT A

Child Support (Registration and Collection) Amendment (Payment Methods) Regulations 2024

Section 1 – Name

This section provides that the name of this instrument is the *Child Support (Registration and Collection) Amendment (Payment Methods) Regulations 2024*.

Section 2 – Commencement

This section provides that the Amendment Regulations commence the day after it is registered on the Federal Register of Legislation.

Section 3 – Authority

This section provides that the legislative authority for making the Amendment Regulations is the *Child Support (Registration and Collection) Act 1988* (the Act).

Section 4 – Schedules

This section provides that each instrument that is specified in a Schedule to the Specification is amended or repealed as set out in the applicable items in the Schedule concerned, and that any other item in a Schedule to the Specification has effect according to its items.

SCHEDULE 1 – AMENDMENTS

Schedule 1 amends the Principal Regulations.

Item 1 amends subparagraph 26(b)(i) of the Principal Regulations. Subparagraph 26(b)(i) of the Principal Regulations sets out the prescribed manners of payment of debts due to the Commonwealth under the Act, where payment of the debt is made to the Human Services Department. ‘Human Services Department’ is defined in the Act and Principal Regulations to mean ‘Services Australia’.

Item 1 omits the existing prescribed manners in subparagraph 26(b)(i) of the Principal Regulations and substitutes the following new prescribed manners of payment:

- Bank transfer
- Visa or MasterCard credit and debit cards
- BPAY
- Post Billpay.

These amendments make it clear on the face of the Principal Regulations what manners of payment are accepted by Services Australia.

With the exception of cheques and money orders, this reflects the existing payment options offered by Services Australia for child support debts.

Only credit and debit cards operating on the Visa or MasterCard systems are prescribed.

BPAY means the national bill payment service provided by banks, building societies and credit unions registered with the BPAY scheme, that is accessed by a registered business' customer via the telephone or internet and which enables the registered business to collect payments from their customers electronically.

Post Billpay means the bill payment service provided by Australia Post.

ATTACHMENT B

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Child Support (Registration and Collection) Amendment (Payment Methods) Regulations 2024

The legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the legislative instrument

The *Child Support (Registration and Collection) Act 1988* (the Act) provides for the registration, collection and enforcement of maintenance liabilities. This includes Australian court orders, administrative assessments and overseas maintenance liabilities.

Section 125 of Act provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters that are required or permitted under the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The purpose of the *Child Support (Registration and Collection) Amendment (Payment Methods) Regulations 2024* is to update the methods available for payment of debts payable to the Child Support Registrar in relation to maintenance liabilities.

The Amendment Regulations provide that Services Australia must accept payment in the form of bank transfer, Visa or MasterCard credit and debit cards, BPAY, and Post Billpay. The Amendment Regulations do not preclude Services Australia from accepting payment in the form of cheque or money order on a case-by-case basis, where considered appropriate. Services Australia will continue to be able to accept payment by cheque or money order in Australian dollars while cheques remain a valid payment instrument.

Human rights implications

The Amendment Regulations engage the following human rights:

- the right of every child to an adequate standard of living (Article 27, Convention on the Rights of the Child)

The Amendment Regulations advance the right of every child to an adequate standard of living by prescribing updated and contemporary methods for the payment of child support debt that must be accepted.

The Amendment Regulations are consistent with the requirement for countries to take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having a duty to maintain the child, including from abroad.

Conclusion

The Amendment Regulations are compatible with human rights because they advance the rights of the child through the recovery of maintenance.

The Hon Amanda Rishworth MP, Minister for Social Services