



Family Assistance Legislation Amendment (Child Care Subsidy) Act 2023

No. 38, 2023

**An Act to amend the law relating to family
assistance, 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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Family Assistance Legislation Amendment (Child Care Subsidy) Act 2023

No. 38, 2023

An Act to amend the law relating to family assistance, and for related purposes

[Assented to 28 June 2023]

The Parliament of Australia enacts:

1 Short title

This Act is the *Family Assistance Legislation Amendment (Child Care Subsidy) Act 2023*.

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*Family Assistance Legislation Amendment (Child Care Subsidy) Act
2023*

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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. The whole of this Act	The day after this Act receives the Royal Assent.	29 June 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Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

A New Tax System (Family Assistance) (Administration) Act 1999

1 After section 71D

Insert:

71DA Debts in respect of CCS or ACCS—absences before first attendance or after last attendance

When this section applies

- (1) This section applies if:
 - (a) an amount (the **CCS/ACCS amount**) is paid to an individual by way of CCS or ACCS for a session of care provided by a child care service of a provider to a child on a day; and
 - (b) the child did not attend any part of the session of care on the day; and
 - (c) the day was:
 - (i) before the day the child first attended a session of care provided by the service; or
 - (ii) after the last day the child attended a session of care provided by the service before the child ceased to be enrolled for care by the service; and
 - (d) the service is not taken to have provided the session of care to the child on the day under subsection 10(2), (3) or (5) of the Family Assistance Act; and
 - (e) the individual incurs a debt under subsection 71B(1) for the CCS/ACCS amount.

If debt is incurred before reconciliation

- (2) If the individual incurs the debt before the individual meets the CCS reconciliation conditions for the income year in which the session of care occurs, then:
 - (a) the individual is not taken to have incurred the debt; and

- (b) the CCS/ACCS amount is instead a debt due to the Commonwealth by the provider.

If debt is incurred after reconciliation

- (3) If the individual incurs the debt after the individual meets the CCS reconciliation conditions for the income year in which the session of care occurs, then:
 - (a) the amount of the debt is taken to be the amount of the withholding component of the CCS/ACCS amount (see subsection (4)); and
 - (b) the amount of the fee reduction component of the CCS/ACCS amount is a debt due to the Commonwealth by the provider (see subsection (5)).
- (4) The **withholding component** of the CCS/ACCS amount is the amount that would be the withholding amount under subsection 67EB(3), if it were assumed that:
 - (a) subsections 67EB(3) and (4) applied for the purposes of this section; and
 - (b) references to a payment in subsection 67EB(3) were instead references to the CCS/ACCS amount.
- (5) The **fee reduction component** of the CCS/ACCS amount is the CCS/ACCS amount less the withholding component of the CCS/ACCS amount.

Interaction with section 71F

- (6) If:
 - (a) under paragraph (2)(b), the provider incurs a debt for the CCS/ACCS amount; and
 - (b) under paragraph 71F(2)(b), the provider incurs a debt that consists wholly or partly of an amount (the **corresponding 71F(2)(b) amount**) that relates to the same session of care as the CCS/ACCS amount;then:
 - (c) if the CCS/ACCS amount is equal to, or more than, the corresponding 71F(2)(b) amount—the provider is taken not to have incurred so much of the debt under

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- paragraph 71F(2)(b) that is equal to the corresponding 71F(2)(b) amount; and
- (d) if the corresponding 71F(2)(b) amount is more than the CCS/ACCS amount—the provider is taken not to have incurred a debt for the CCS/ACCS amount under paragraph (2)(b) of this section.
- (7) If:
- (a) under paragraph (3)(b), the provider incurs a debt for the amount of the fee reduction component of the CCS/ACCS amount; and
- (b) under paragraph 71F(3)(b), the provider incurs a debt that consists wholly or partly of an amount (the ***corresponding 71F(3)(b) amount***) that relates to the same session of care as the CCS/ACCS amount;
- then:
- (c) if the amount of the fee reduction component is equal to, or more than, the corresponding 71F(3)(b) amount—the provider is taken not to have incurred so much of the debt under paragraph 71F(3)(b) that is equal to the corresponding 71F(3)(b) amount; and
- (d) if the corresponding 71F(3)(b) amount is more than the amount of the fee reduction component—the provider is taken not to have incurred a debt for the amount of the fee reduction component under paragraph (3)(b) of this section.

2 Section 71F

Repeal the section, substitute:

71F Debts in respect of CCS or ACCS for individual—provider at fault

When this section applies

- (1) This section applies if:
- (a) an amount (the ***CCS/ACCS amount***) is paid to an individual by way of CCS or ACCS for a session of care provided by a child care service of a provider; and

- (b) all or part of the CCS/ACCS amount (the **attributable component**) is paid to the individual because the provider has:
 - (i) made a false or misleading statement; or
 - (ii) failed to comply with the family assistance law; and
- (c) the individual incurs a debt under subsection 71B(1) or 71C(1) for the CCS/ACCS amount.

If debt is incurred before reconciliation

- (2) If the individual incurs the debt before the individual meets the CCS reconciliation conditions for the income year in which the session of care occurs, then:
 - (a) the amount of the debt is taken to be reduced by the amount of the attributable component; and
 - (b) the amount of the attributable component is instead a debt due to the Commonwealth by the provider.

If debt is incurred after reconciliation

- (3) If the individual incurs the debt after the individual meets the CCS reconciliation conditions for the income year in which the session of care occurs, then:
 - (a) the amount of the debt is taken to be the amount of the withholding component of the CCS/ACCS amount (see subsection (4)); and
 - (b) the amount of the fee reduction component of the CCS/ACCS amount (see subsection (5)) is a debt due to the Commonwealth by the provider.
- (4) The **withholding component** of the CCS/ACCS amount is the amount that would be the withholding amount under subsection 67EB(3), if it were assumed that:
 - (a) subsections 67EB(3) and (4) applied for the purposes of this section; and
 - (b) references to a payment in subsection 67EB(3) were instead references to the CCS/ACCS amount.

- (5) The ***fee reduction component*** of the CCS/ACCS amount is the CCS/ACCS amount less the withholding component of the CCS/ACCS amount.

3 Application of amendments

The amendments made by this Schedule apply in relation to a session of care that is provided on a day that occurs on or after the commencement of this Schedule.

*[Minister's second reading speech made in—
House of Representatives on 25 May 2023
Senate on 13 June 2023]*

(65/23)

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