
Child Support

After separation, parents have an ongoing obligation to provide financial support for their children. This obligation is known as child support.

While children are under 18, their parents are required to support them. The standard formula takes into account the incomes of the parents and the amount of time each parent spends with the child. In some circumstances, the standard formula does not apply, or the parents agree that it should not apply.

A child support obligation can arise if:

- Either parent asks the Child Support Agency ("CSA") to make an assessment of the amount of child support payable. After an assessment, the CSA can collect child support from the paying parent, or payments can be arranged privately between the parents
- The parents make a formal Child Support Agreement.
- The parents have an informal agreement about child support. However, a parent entitled to receive child support who receives Centrelink benefits, may be required to apply to the CSA for a formal assessment of child support entitlements
- In limited circumstances, a court makes orders about child support

Who is liable to pay child support?

Child support obligations apply to all natural and adoptive parents of children, and most children born from artificial conception procedures.

When does a child support obligation end?

The obligation to pay child support automatically terminates when a child reaches the age of 18

If a child turns 18 years old part-way through the secondary school year, the obligation to pay child support ends on the last day of that school year

Support for children over the age of 18

Many children are still financially dependent upon their parents after the end of their secondary schooling.

A parent can ask the court to make a "maintenance" order for a child over the age of 18 if the child has special needs relating to education or training, or to a disability. The court looks at the needs of the child and the capacity of the child and each parent to meet the child's needs.

An agreement about maintenance for a child over the age of 18 can be documented in a Consent Order, which is binding and enforceable, or in a Parenting Plan, which is not enforceable.

How much child support is payable?

When the CSA is asked to assess a parent's child support obligation, it applies a formula which takes into account factors such as:

- the taxable incomes of both parents
- the number of children
- the amount of nights that the children spend with each parent
- any other dependent children of the parents not included in the assessment

The CSA website, www.csa.gov.au, has a calculator which gives a rough estimate of the child support that will be payable in your situation.

How is child support paid?

Child support is usually paid monthly. It can be paid through the CSA or direct to the other parent.

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Parents can agree whether payments to third parties made for the benefit of the child should reduce the monthly amount of cash child support payable.

Even if the parties do not agree, a paying parent can ask the CSA to credit certain "prescribed expenses" made to a third party for the benefit of a child to be credited against up to 30% of their monthly cash child support liabilities. "Prescribed expenses" include:

- child care expenses
- school or pre-school fees
- school uniforms and prescribed text books
- medical and dental expenses
- rent or bond payments
- mortgage repayments for the other parents home
- motor vehicle costs

For example, a parent assessed to pay \$1,000 per month in child support who pays \$400 towards the child's school books, can ask for \$300 of that amount to be credited against their cash child support liability that month. The remaining \$100 can be credited against their child support liability for the following month, reducing the amount payable to \$900 in the second month. The parents can agree that these prescribed payments are not credited against the cash child support liability.

Change of Assessment

A parent can apply to the CSA to change a child support assessment. A change of assessment decision is made by a CSA officer based on the written submissions of the parents and their supporting documents. Conferences may be held by the CSA officer with the parents face to face, or by telephone, individually or together.

Lawyers are not allowed to attend conferences held by the CSA with the parents, but we can help you to prepare an application or a response, and advise about documents and information you may need and the range of likely outcomes.

Some of the more common grounds relied upon by parents seeking a change of assessment are:

- The assessment does not take into account the income, earning capacity or financial resources of one or both parents. Actual income or earning capacity of a parent may be different to the income on their tax return.
- It costs the parent paying the child support more than 5% of their "child support income" to spend time with the children. This is usually due to a parent travelling long distances to spend time with a child.
- It costs more to educate the child in the way that both parents intended. Usually, this will be because the child attends a private school with the consent of both parents.
- The person paying child support has necessary expenses to support themselves which affect their ability to financially support the children. For example, a parent has significant ongoing loan repayments.

What if I disagree with a decision made by CSA?

You can object to decisions made by the CSA. The objection must be in writing and must be received by the CSA within 28 days of the original decision.

If the CSA does not accept your objection, you can appeal to the Social Security Appeals Tribunal ("the SSAT") for a review of the decision. The SSAT is an independent tribunal which can review the CSA's decisions.

In certain circumstances, you can apply to the Court regarding an objection decision. These include:

- if the CSA decision relates to parentage
- if you have other matters, such as parenting or financial matters, already before the Court
- if the CSA decides that a change of assessment case is very complex