

Child Support in Australia – The Basics

When parents separate, working out how the cost of raising children will be shared is often a stressful but important part of the separation process.

Child support is the term that refers to the amount one parent may need to pay the other parent after separation to ensure that their children are adequately looked after in both homes.

In Australia, child support is generally dealt with through the Child Support Agency through Services Australia.

What is child support?

Child support is financial support paid by one parent to another to contribute to the cost of raising their child. The amount of child support payable is determined generally by a formula that considers factors including each parent's income, the level of care each parent provides and the costs of raising the children.

Parents can apply through the Child Support Agency for a child support assessment. The assessment will determine the amount of child support payable. This is known as an Administrative Assessment. The formula undertaken to reach this assessment considers several factors including the income of

each parent and the level of overnight care that each parent provides to the children.

Can an Administrative Assessment be varied?

The Administrative Assessment can be varied if agreed by the parents. The agreed variation can be formalised either by way of a Limited Child Support Agreement or Binding Child Support Agreement. This may be of specific importance where there are private school fees involved as the Administrative Assessment may not take these fees into account.

Can an Administrative Assessment be challenged/departed from?

Yes, a parent who believes an assessment does not properly reflect their circumstances may have options to challenge the assessment.

A change of assessment may be appropriate where the formula produces an unfair result because of the specific circumstances affecting the parents or the children.

Simply, disagreeing with the amount of child support to be paid does not necessarily mean the assessment will be changed. There must be a proper basis for the application.

In certain circumstances, a parent can apply to the Court for an order to depart from the administrative assessment, known as a Departure Order. Departure Orders allow child support to be calculated differently from the administrative assessment. A Departure Order is made under Part 7 of the *Child Support (Assessment) Act 1989 (Cth)* allows the Court judicial flexibility if the formula doesn't reflect the reality of a family's financial situation.

The grounds to consider departure from the administrative assessment include:

- Significant costs associated with spending time with the child.
- Special needs of the child
- High childcare costs
- Significant reduction in a parent's capacity to pay
- Injustice or inequity
- Responsibilities to support other children or dependents
- High costs associated with education
- Payments or advances made on behalf of the child.

To successfully pursue a departure from assessment, the following must be established:

- Special circumstances

The situation must involve special circumstances that warrant a departure from the standard assessment.

- Just and equitable

The Court or Child Support Registrar must be satisfied that a departure is just and equitable and otherwise proper to do so. The discretionary nature of the Court means that it is a balancing act of weighing up several factors including, the financial and non-financial contributions of both parties, the impact of the proposed order on the wellbeing of the children and the overall fairness of such order.

Applications for Departure Orders can be complex and careful consideration should be given to all evidence to support the application.

Binding Child Support Agreements

Another method available to parents is reaching an agreement that differs from the administrative assessment is parents can negotiate their own arrangements through a Binding Child Support Agreement.

A Binding Child Support Agreement can provide flexibility about the amount of child support payable and how it is paid.

Read more about Binding Child Support Agreements **here**

How can Andersons help?

Our team of family lawyers can discuss the option of entering into either a Limited Child Support Agreement or Binding Child Support Agreement with you and explain how they work.

We offer a 90-minute initial meeting to develop a “Family Road Map” tailored to your personal situation.

All your concerns will be addressed in this appointment, and your lawyer will explain the process and outline a plan for next steps. All of a set fee.

For more information or to book your 90 minute “Family Road Map” appointment, please call 8238 6666 or using our Contact Form **here**

The information in this article is general in nature and was accurate at the time of publication. Laws and circumstances can change. For advice specific to your situation, please seek professional legal advice.