

## “Child Support – What should I know?”

When there is marital breakdown and children are involved, if support and maintenance cannot be agreed between parents, it may become necessary to involve legal agencies.

### **Child Support Agency**

In April 1993 the Child Support Agency (CSA) was created by the Child Support Act 1991. Where child maintenance or support cannot be agreed between the parents, the CSA is the only organisation that can settle the differences.

The Child Maintenance & Other Orders Payments Act 2008 has now come into effect which will gradually phase out the CSA and replace it with Child Maintenance & Enforcement Commission.

### **A Qualifying Child**

This is the term used by the CSA for the child for whom maintenance is paid. The following requirements must be met to be a *qualifying child*. The child must be:

1. under 16 year of age, or under 19 years of age and in full time education.
2. not married.
3. living apart from one or both of his or her parents.

### **Maintenance Assessment**

An application to the Child Support Agency can be made, requiring a maintenance assessment, by either the parent with care of the qualifying child or the non-resident parent.

Since 14 July 2008 parents with care on state benefits do not suffer a financial penalty if they do not claim child support.

If there are voluntary maintenance arrangements with which the parent with care is satisfied, then he or she may be content to leave matters as they stand rather than involve the Child Support Agency.

### **Existing Maintenance Arrangements**

If there are existing arrangements the CSA may not be able to deal with an application. This applies where:

- There is a written agreement between the parents, made before 5 April 1993.
- There is a Court Order, made before April 2002.
- There is a Court Order made after April 2002 and the Order has been in force for less than a year.

## ***Non-resident Parents Living Abroad***

It is not possible for the CSA to deal with applications for child maintenance if any of the parties involved live outside the United Kingdom.

### ***Calculation of Maintenance***

1. *Basic Rate* (most non-resident parents will fall into this)

It is calculated as a percentage of the non-resident parent's net weekly income i.e. after deduction of tax, National Insurance and certain contributions to a pension scheme.

- One qualifying child = 15%
- Two qualifying children = 20%
- Three or more qualifying children = 25%

Income over £2,000 per week is ignored

2. *Reduced Rate*

Non-resident parents with net weekly income of more than £100 but less than £200 will pay £5 per week plus a percentage of the net weekly income over £100.

3. *Flat Rate*

Non-resident parents with net weekly income under £100 or who are in receipt of certain state benefits or pensions will pay £5 per week child support.

4. *Nil Rate*

Where non-resident parents fall into the following categories they will not have to pay child support or maintenance

- Students in full time education;
- Young people in full time education;
- Prisoners;
- 16/17 year olds receiving income support or income based Jobseekers Allowance;
- People living in residential care or nursing homes and receiving help with fees.

### ***What if you have shared care of a child***

Non-resident parents who have a qualifying child to stay overnight for at least one night a week can have the maintenance reduced as follows:

<b><i>Number Of Nights Care Per Year</i></b>	<b><i>Fraction Of Reduction</i></b>
52-103	1/7
104-155	2/7
156-174	3/7
175 or more	one half

Where Flat Rate maintenance is paid and the non-resident parent shares care for at least 52 nights a year, the liability of that parent will be nil.

### **Court Maintenance System**

As well as the CSA, the Courts still deal with maintenance applications for any of the following:

1. A spouse;
2. A child of any age where one of the parents lives abroad;
3. A child aged 19 or over and still in full time education;
4. A child between 16 and 18 receiving advanced education;
5. A stepchild who is treated as a "child of the family";
6. Variation of an existing Child Maintenance Court Order;
7. "Top-ups" to CSA assessments where the maximum amount payable under the formula has been reached; or
8. A disabled child.

### **Child Maintenance In The Future**

The child maintenance in the future will be subject to numerous changes following the full implementation of the *Child Maintenance and Other Orders Payments Act 2008*.

These include:

1. From some time in 2011, the formula for the basic rate assessment to change so it is based on a percentage of gross earnings (as opposed to net). At present, we believe those percentages will be set as follows:
  - **12%** for one child,
  - **16%** for two children,
  - **19%** for three or more children
2. At the same time, where the gross weekly earnings are in excess of £800 per week an additional liability will be calculated. At present we believe those percentages will be set as follows:
  - **9%** for one child,
  - **12%** for two children,
  - **15%** for three or more children
3. In terms of enforcement, the new law will give greater powers to take action against those who do not pay. These include, for example, the power to take money from bank accounts and even to disqualify someone who does not pay from driving.

*(The above information may change so please contact us for specific enquiries about the new legislation).*

***If you require advice regarding your particular circumstances, please telephone us to speak to one of our specialists in this field.***

***Or REQUEST A CALL BACK at a time convenient to you.***

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