

THE INTERNATIONAL FAMILY LAW GROUP

iGuides to family law and practice

CHILD MAINTENANCE

The Child Support Agency (CSA) is soon to be replaced by the Child Maintenance and Enforcement Commission (CMEC). The two organisations are both currently in existence however the CSA is due to be wound up. The CSA was introduced by Margaret Thatcher to secure maintenance payments for children from the parent who does not have care. However it has been widely considered a failure for many reasons and is being replaced.

CSA/CMEC has power to make assessments for child support where the child and the 'Non –Resident Parent' (NRP) are in England and Wales. The family court can only make orders for child maintenance where the parents agree on what the figure is, or where the parents are not yet separated. In any event, a court order can be overturned by an application to CSA/CMEC 14 months later.

There are two completely different formulae for calculating child maintenance. There was one formula when the CSA was first created in 1991, which was found to be too complicated and unworkable. So a new simplified formula was put in place in 2003.

THE CURRENT CALCULATIONS

Child support is made up of a flat percentage of an employee's gross pay (including tax) and including overtime and bonuses. For self-employed people the amount is calculated as a percentage of their net income, that is pay, plus overtime and bonuses less tax. The income and assets of the parent with care (PWC) are completely ignored.

- 1 child = 15%
- 2 children = 20%
- 3 children = 25%

So a man earning £30,000 gross per annum would pay:

- 1 child = 15% or £4,500
- 2 children = 20% or £6,000
- 3 children = 25% or £7,500

However pension payments can be deducted in full before the percentage calculation. There can be no other deductions

The amount of contact that the NRP has with his children also affects the sum, see below.

Stays of not less than	Reduction of Child support
52 nights p/a	1/7
104 nights p/a	2/7
156 nights p/a	3/7
175 nights p/a	50%

Special arrangements may apply if there is genuine equal shared care

THE NEW CALCULATIONS

These are expected to be introduced in 2010. There are two important changes to the calculations.

First, it is assessed on net weekly income (after tax), and not gross income.
Secondly, the amount payable will now be within the range of income in much the same way as tax.

The two ranges or brackets are:

1. Income between £200 & £800 p/w (£10,400 - £41,600 per annum)
2. Income between £800 & £3000 p/w (£41,600 - £156,000 per annum)
3. Income above this amount will be subject to top up applications through the courts as now

For those in the first bracket the amount of child maintenance is as follows:

- One child – 12%
- Two children – 16%
- Three children – 19%

For those in the second bracket the amount is as follows:

- One child – 9%
- Two children – 12%
- Three children – 15%

ENFORCEMENT

One of the main aims of the new system is to give the agency more ways of enforcing payments. The agencies currently have the following powers:

1. Apply to commit the non-resident parent to prison if they withhold information from the Agency or if they provide false information, or fail to pay the maintenance.
2. To appoint Inspectors to enter homes of non-residential parents with the aim of gaining information on the parent who is to be paying child maintenance.
3. The Agency can apply for a Deduction of Earnings Order from the NRP's bank account .
4. The Agency can apply for a Liability Order for the debt alleged to be outstanding in child support arrears. This is treated as a County Court Judgment and ultimately the Agency can apply to repossess the house to pay off the debt.
5. The non-payer can have their driving license suspended.
6. Publishing names of NRPs who are successfully prosecuted

The Government has in January 2009 introduced a new Bill into Parliament to enable them to seize passports from non-paying NRPs and other enforcement powers.

This iGuide is for information only and a specialist legal advice should always be taken. For further details contact The International Family Law Group at 020 3178 5668 and www.iflg.uk.com.

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