



Child Support Lawyers Advice to Separating Parents

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When individuals with a child or children separate, there is more to consider than just the needs of either party; it is vital to ensure that the needs of the children are protected, this is where Child Support Lawyers may be of assistance. Child Support Lawyers are able to assist separating parties to work through appropriate arrangements for the future financial maintenance of the parties' child or children. Child support is a payment by one of the parents to assist the other with the cost of looking after the parties children who are under the age of 18 years old, unless other factors cease the payments earlier.

Parents have the choice of applying to the Department of Human Services (DHS) for an administrative assessment, or they can make a private agreement between themselves with the assistance of their Child Support Lawyers.

Option 1 - Child Support Administrative Assessment

Child support is assessed by the Australian Government Department of Human Services (DHS) using a formula dictated by the *Child Support (Assessment) Act 1989*.

Considerations in the Basic Child Support Formula

*Note factors considered are not limited to those listed below, every case may be different.

- The number of children
- The children's ages
- How much money the parent needs to support themselves
- Both parents incomes
- The percentage of care each parent provides for the children
- Other dependant children from

Option 2 - Private Child Support Agreements through Child Support Lawyers

Must contain at least one of the following:

- Periodic child support
- Variation to the current rate of payment
- Non-periodic provisions such as school fees and how this may or may not impact the annual rate
- Lump sum payment

1. Binding child support agreements



There are technical requirements set out in the legislation that **must** be met for an agreement to be binding. Child Support Lawyers are able to guide you through these requirements.

Requirements

- Parties seek independent legal advice about the advantages and disadvantages of the agreement
- Each independent lawyer is to provide a certificate that they provided that advice
- The agreement may be for any agreed amount even less than the agencies assessed amount
- A child support assessment is not necessary

Benefits

- High level of certainty and finality

Disadvantages

- Difficult to make it adaptable to future changes to needs and means - Limited agreement more suitable to counteract this
- Difficult to terminate or alter. May only end by a new binding agreement terminating the old agreement or by a court order that it be set aside

2. Limited child support agreements

Requirements

- In writing
- Signed by both parents
- Lodged with Child Support Registrar
- A child support assessment must be in place
- The annual agreed amount payable must be equal to or more than the assessed amount
- Separate legal advice is not necessary

Benefits

- Can be ended after 3 years if a party wishes or earlier if financial circumstances significantly change
- Various ways to terminate the agreement:
 - Making a new agreement
 - By an order setting it aside
 - If the notional assessment changes by more than 15% and one parent wants to end it
 - If three years have passed and written notice to the Child Support Registrar is given by the terminating parent



Whether or not to register the agreement with the Child Support Registrar

Periodic Support Only

- If an assessment is already in place the agreement should be registered so that the Registrar is updated
- The registrar is able to monitor and collect any periodic payments
- If arrears accrue the registrar has the power to garnishee the liable parents tax returns and treat the debt as due to the Commonwealth
- If the agreement is limited then an administrative assessment must be made first before it can be registered

Non-periodic Support

- The Child Support Registrar has no power to enforce payment
- If parties register it in the Family Court parties can seek enforcement orders

If you are a separating parent with a child or children under the age of 18 years, our child support lawyers are able to provide you with the understanding, guidance and advice you need to determine your possible rights and obligations in relation to child support, as well as assist you to determine what kind of arrangement is best suited to your particular circumstance.

Contact us on **1800 300 170** or email us at familylaw@matthewsfolbigg.com.au

Disclaimer

Family law situations can be complex and sometimes they can involve serious issues. Information outlined is proposed to provide general guidance only. Due to the seriousness of legal matters as well as the uniqueness of your individual situation, professional advice should be sought. For advice, please contact one of our Family Lawyers.