

QUICK TIPS ON CHILD SUPPORT AGREEMENTS

4 September 2018

If you have separated and have children and the suggestion of a Child Support Agreement has come up, it is important that you think carefully about what to do. Here are some quick tips:

What is a child support agreement?

A child support agreement is a written agreement between parents on the amount of child support to be paid and how it will be paid. An agreement must be in writing and signed by all parties.

There are two types of agreements: limited and binding.

- **Limited child support agreements** can only be accepted if there is a child support assessment (CSA) in place and the annual rate payable under the agreement is equal to, or more than, the annual rate of child support payable under the child support assessment. You are not required to get legal advice before entering into a limited agreement, however you can choose to do so. A limited agreement can only be made for a maximum of (3) years.
- **Binding child support agreements** can be made and accepted even if a child support assessment (CSA) has not been made. The agreement can be made for any amount that all parties agree to. Each party must obtain independent legal advice before entering into the agreement and attach a certificate that is completed and signed by each party and their solicitor. A binding agreement can only be ended if a new agreement is entered into and terminates it or, if a court order is made to terminate it or, if care arrangements change as set out below.

If you are considering signing an agreement, it is important that you understand what you are signing. If you are unsure about anything in the agreement, you should get independent legal advice.

Eligibility

When applying for a child support agreement to be accepted, there are specific eligibility requirements that apply. You must meet all of these eligibility requirements for a child support agreement to be accepted. Such as;

- The parent paying child support must be a resident of Australia (or country with reciprocating jurisdiction) on the day the agreement is made;
- The parties to the agreement must not be living together;
- The child(ren) must be under 18 years of age;
- The child(ren) must either be Australian citizens or they must currently or usually live in Australia.

Effect of care changes

Since 1 July 2018 new rules have come in regarding the termination of agreements if care arrangements have changed significantly.

An agreement will end for a child if the person who receives child support in the agreement stops having at least 35% care of the child.

If the care change is notified to the CSA within 28 days, the agreement will be suspended for the first 28 days after the care percentage changes, or up to 26 weeks in some cases.

If the care change is notified to the CSA outside 28 days, the agreement may be suspended for up to 26 weeks. If a 26 week suspension does not apply, the agreement will end from the day the person stopped having at least 35% care of the child.

An agreement may be suspended for up to 26 weeks if:

- The agreement includes a clause for longer suspension;
- All parties to the agreement request a longer suspension; or
- The CSA finds that there are special circumstances concerning the care change.

A suspension period is provided so that the agreement can re-start for the child if the person regains at least 35% care during the agreement suspension period. If this does not happen, the agreement will end from the day the person stopped having at least 35% care of the child.

What can be in a child support agreement?

The parties can agree to the amount of child support to be paid and how it will be paid, including agreements such as;

- Periodic payments
- Non-periodic payments
- Lump sum payments, and
- Modifying the child support formula

Acceptance of the agreement

Once completed a Child Support Agreement needs to be accepted by the CSA. After you apply to have your agreement accepted the CSA will contact you to confirm whether it has been accepted. After an agreement is accepted the CSA will send each of the parties a notice that summarises the agreement.

If you have questions about Child Support, or are thinking of entering an agreement it is essential that you get specialist Family Law advice. For a fixed-fee no obligation initial consultation, call us on (07) 3221 4300.