

This article will discuss who is eligible for child support payments and the different ways to organise child support payments, including both self-organised methods and government-assisted methods.



The separation of parents is tolling on all parties involved. Emotional burdens are hard enough to deal with without the added burden of financial insecurity. Child support payments, also known as child maintenance payments, can ease the burden on separated families.

A. WHAT DOES IT MEAN?

Child support refers to payments made to the primary parent or guardian who cares for a child and are usually paid by the other parent of the child. They cater for the costs of caring for the child.

B. WHO IS ELIGIBLE?

The Federal Department of Human Services outlines that to receive child support payments, a legal parent or carer must be caring for the child at least 35% of the time, totalling 128 nights or more a year.¹ A carer cannot be someone in a domestic relationship with the parent.

C. WHAT ARE THE DIFFERENT WAYS TO RECEIVE CHILD SUPPORT?

There are four different ways of organising child support payments:

- A self-organised method of payments;
- A Child Support Agreement made personally between the parents/carers, either limited or binding;
- A Child Support Assessment by the Department of Human Services; or
- Court-ordered payments.

C.1. SELF-ORGANISED METHOD

This can be organised individually between the parents and/or carers. Nothing needs to be in writing, as long as both parties agree.

C.2. CHILD SUPPORT AGREEMENT

A 'Limited Child Support Agreement' is an agreement in writing between the parents and/or carers, which outlines who is to pay, how much they are to pay and how often. Other factors may also be included. After the agreement is signed, either party can apply to a Registrar to get it accepted.

¹ Department of Human Services, accessed 14/03/19. < <https://www.humanservices.gov.au/individuals/services/child-support/child-support-assessment/what-you-need-know/eligibility>>



It is not a requirement that parties seek legal advice before forming a 'Limited Child Support Agreement'; however for it to be accepted by a Registrar, a 'Child Support Assessment' must be in force.

A 'Limited Child Support Agreement' cannot outline the annual child support payment at an amount which is less than the amount specified in the 'Child Support Assessment'.²

A 'Binding Child Support Agreement' does not require a 'Child Support Assessment' before it can be accepted by the Registrar. However, both parties are required to obtain legal advice for the Agreement to be valid. A 'Binding Child Support Agreement' is enforceable similar to any other financial agreement between parties.

C.3. CHILD SUPPORT ASSESSMENT

Parents and/or carers can apply for a child support assessment by the Department of Human Services to determine how much child support is payable and to who. Parents can then hand over the management of the payments to the Department of Human Services. If incomes or situations change parents or carers can update the Department of Human Services and the assessment can be adjusted to suit.

C.4. COURT ORDERED PAYMENTS

Courts such as the Family Court can make orders relating to child maintenance payments if they deem it necessary.

This usually occurs if a child falls outside of the scope of legislation, such as if a child is over 18 or if the parents applying are step-parents.³

D. WHAT IS TAKEN INTO CONSIDERATION?

The Department of Human Services use the income of both parents and the percentage of care each parent provides for the child to determine the appropriate amount of child support to recommend. These two factors can be used in any of the methods spoken about above. If the primary carer of the child is not the parent, their income is not taken into account.

E. WHEN CAN CHILD SUPPORT END?

Usually child support ends when the child turns 18; however, if the child is still in secondary school it is usually acceptable to extend it until they graduate secondary school.

For 'Limited Child Support Agreements' and child support assessments, this extension would need to first be approved by the Department of Human Services.

Comasters Law Firm and Notary Public can advise and assist clients on divorce and child support matters.

For more information on related matters, you may wish to read the following articles:

1. [Consent Orders in Family Law Matters](#)
2. [Marriage and Divorce](#)
3. [Property and Financial Settlements in Family Law](#)

² Australian Government, *Guides to Social Policy Law*, accessed 14/03/19 <<http://guides.dss.gov.au/child-support-guide/2/7/1>>

³ Department of Human Services, accessed 14/03/19, <<http://guides.dss.gov.au/child-support-guide/2/7/1>>

CONTACT US