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# Child Support

## The New System - 2003 and onwards

The Child Support Pensions and Social Security Act was passed in December 2000 and has been implemented as of 3 March 2003. Many provisions of this statute are a dramatic simplification of the Child Support regime. This new system applies to applications made to the Child Support Agency from 3 March 2003 onwards. In due course existing cases will be brought into the system.

### A. The System

1. Income to be taken into account: simply, the income of the so called 'residential parent' (the equivalent of the 'parent with care' under the old regime) will be ignored. It is only the income of the non-residential parent (the 'absent parent' under the old regime) which will be relevant. The non-residential parent's gross income will be subject to the deduction of tax, National Insurance contributions, all pension contributions and allowances relating to the children of the family in which that parent resides, only. His or her income may be enhanced by such rate of interest as may be applied by regulation to any asset valued at £65,000 or more, excluding their home. At present we do not know what will be the level of interest allocated to this, although it may be 8%.
2. The rate of payment for children: this is drastically simplified. All of the net income will be subject to the payment. The payments will be at the rate of 15% of net income for one child, 20% for two children and 25% for three or more children.
3. Levels of payment: If the non-residential parent has a net weekly income of between £100.00 and £200.00, reduced rates will apply. There will be a ceiling of £2,000 net income per week for the calculation. It is assumed that the court will retain a residual right to top this up in the wealthiest of families.
4. Role of the Courts: It is no longer possible to ask the Court to approve an agreement for child maintenance and embody it in a Court Order under the new system, except where there is a prior written agreement between the parties. Any such Order will remain in force for at least one year during which period no application may be made to the Child Support Agency. After the expiration of one year from the date of the Court Order, either party can give the other party two months' notice of his or her wish to depart from the Order, and may

then make an application to the Child Support Agency.

5. Reductions: The rates of payment for children will be reduced by the number of overnight stays which the children have with the non-residential parent. For one to two nights per week the reduction will be 1/7, for two to three nights per week 2/7. This will increase to one half if the children divide their time equally between their parents. The CSA will look at more factors than just overnight stays.
6. Scope: The Child Support Agency's jurisdiction will be extended to cover non-residential parents working abroad for the first time, but only if they are employed by the Crown, employed by the Forces or employed by a company registered in England, Scotland or Wales.

### B. Departures/Variations

Instead of departures, either parent may apply for a variation from the standard rate. This is dealt with by the Child Support Officer. The Child Support Officer will have the power to make an award based on the non-resident parent's apparent lifestyle in the absence of proof of income commensurate with that lifestyle.

If the non-resident parent has exceptional expenses (of over £10.00 to £15.00 per week) for contact with the children or supporting a severely disabled child in a subsequent family or paying off debts incurred for child benefit or paying to maintain the child whilst boarding at school (but not for tuition fees), this may be taken into account for a downwards variation of support. Further, certain property transfers which took place before 1993 will also be reason for a reduction.

### C. Reduction in Net Income

If the non-resident parent has children in a new family unit, then the number of children in that unit will affect the income said to be available for assessment. The same percentages are allowed against income for the children of the new family. Thus only the net income as reduced by the relevant percentage for children of the new family unit, would then be subject to a deduction of a percentage for children of the old family unit.

Conversely if there are children in the present family unit and a claim is made by the parent of the new family unit within which the non-resident parent chooses not to reside, the same applies; that the children with whom the so-called non-resident parent is actually living will have the first tranch of income and the children with whom he is not living will have a percentage of the reduced income.

There will no longer be an automatic claw back pound for pound of benefits for a family on Family Credit or Working Family Tax Credit. For parents with children living with them claiming Income Support or income related Job Seeker's Allowance, they will be able to retain £10.00 per week of the child support payments made.

#### **D. Phasing**

There will be a system where increases will be introduced gradually. The phasing provisions will mean that those earning over £400.00 per week will see a maximum yearly increase towards the new figure capped at £520.00 and the phasing may last up to six years.

Unfortunately the Child Support Agency still does not cover the need for children while in further or higher education. There also continues to be a link between the amount of payment made and the level of contact taking place.

Child Support arrangements are now called 'calculations' rather than 'assessments'.

This information sheet has been prepared to highlight some key issues relating to Child Support. It is intended to be for general guidance only and is not a substitute for specific advice. It is based upon our understanding of the legal position as at March 2003 and may be affected by subsequent changes in the law. Should you require any specific legal advice on the issues covered, please contact Barbara Wright by email at [barbara.wright@ts-p.co.uk](mailto:barbara.wright@ts-p.co.uk) or call on 01892 510000.