



Australian Government

Department of Families,
Housing, Community Services
and Indigenous Affairs

Child Support Scheme Reforms

Fact sheet Eighteen: Child support agreements and lump sum payments

When relationships break down parents need to work out a range of issues, in particular, child support arrangements. The best arrangements are those that parents negotiate between themselves. These arrangements are more likely to last because parents feel responsible for the choices they have made.

Child support agreements allow parents to work out their own child support arrangements after separation. The new Scheme—which commences on 1 July 2008—increases flexibility for parents who want to agree to their own child support arrangements, while providing additional safeguards for both parents and children.

Child support agreements and Family Tax Benefit (FTB)

Under the previous Scheme, parents who received more than the base rate of Family Tax Benefit (FTB) Part A, generally could not make agreements to receive less child support than what would have been payable under the child support formula. This is because, if a parent agreed to less child support, it could result in them receiving more FTB Part A as a result of the application of the Maintenance Income Test (MIT). For more information see [Fact sheet Seventeen: Changes to Family Tax Benefit \(FTB\)](#).

The previous approach provided limited protection to both parents and taxpayers because it did not adequately take into account any changes to circumstances after a child support agreement had been made. This meant that over time, with changing circumstances, child support could be less than what would have been payable if the agreement had not been in place. In addition, this approach restricted parents who wanted to enter an agreement for an amount less than the child support formula would have provided.

New approach

Under the new Scheme, the MIT is applied on the basis of child support that would have been payable under the new formula if the child support agreement was not in place – this is called a ‘notional’ assessment and is worked out by the Child Support Agency (CSA). This continues to ensure an appropriate balance is met between parents supporting their children and the government supporting their children. However, parents can still enter into child support agreements which depart from the child support formula.

Increased protection for parents entering child support agreements

The new Scheme also introduces increased safeguards to ensure that child support agreements that have long-term financial consequences for parents and children are freely and fairly made. There are two types of child support agreements:

- ▶ *Binding child support agreements* allow parents to agree to child support which is less or more than what would have been payable under the new formula. Parents can only end a binding child support agreement by making a binding termination agreement, or new binding agreement, or through a court order. However, to enter into or end a binding child support agreement, a parent is required to obtain independent legal advice. This is consistent with the rules relating to binding financial agreements under Family Law (e.g. agreements relating to property division and spousal maintenance). The amount of FTB Part A a parent receives is based on the CSA's notional assessment, which is updated every three years or if the agreement amount changes by more than 15 per cent.
- ▶ *Limited child support agreements* allow parents to agree on child support which is equal to or more than the CSA's notional assessment. To enter into a limited child support agreement, parents are not required to seek legal advice. Either parent can request an updated notional assessment from CSA so that they can monitor the currency of the agreement. Parents can also end limited child support agreements more easily. For example, a parent can end a limited agreement if a notional assessment varies by more than 15 per cent from the previous one. A parent may also end a limited agreement after three years.

Lump sum payments

Under the new Scheme, binding child support agreements can include lump sum payments (including transfer of property) to be credited as child support instead of monthly cash or electronic payments. Lump sum payments give parents more flexibility to decide how they want to receive or pay child support.

Parents do not have to agree on the amount of child support to be paid. CSA makes child support assessments as usual. The lump sum must be equal to or greater than the annual child support liability as assessed by CSA. If the lump sum payment is greater than the annual child support liability, the difference is used as credit for future child support payments.

Parents can nominate whether they want all of the upcoming child support payments to be met using the lump sum or only some of them. The lump sum amount is reduced at the end of each financial year by how much was used to meet child support payments during the year. Any remaining amount is indexed annually.

For child support agreements for a lump sum payment only, the MIT for the FTB Part A uses the amount credited against the child support liability as a result of the lump sum payment, plus any remaining cash child support that is received.

Please note this fact sheet is for general guidance only. It should not be treated as a complete or authoritative legal statement.

More details about these changes can be found in other fact sheets and on the Child Support Agency website www.csa.gov.au

If you would like to read more information on the Taskforce and how the reforms started, visit the website of the Australian Government Department of Families, Housing, Community Services and Indigenous Affairs www.fahcsia.gov.au