

Factsheet Nine:

Stage 2 – 1 January 2007

Parentage issues and child support payments

Child support is payable by a biological or adoptive parent of the child. The Child Support Agency (CSA) cannot accept an application for a child support assessment unless it is satisfied that the liable parent named in the application is a parent of the child.

Changes were introduced from 1 January 2007 to improve and simplify the processes where a person believes they should not be required to pay child support because they are not the biological or adoptive parent of a child.

How is proof of parentage determined?

CSA will be satisfied someone is a child's parent in certain circumstances which include, among others, that they are named on the child's birth certificate, the parents were married when the child was born or they were living with the mother prior to the child being born.

If you disagree with CSA's decision about whether you are liable to pay child support, you can apply to a court for a declaration regarding the assessment.

What should I do if I think I am not liable to pay?

If you believe that you are not liable to pay child support, you can apply directly to a court for a declaration under Section 107 of the *Child Support (Assessment) Act 1989*. The court can order DNA testing of both parents and the child and then determine if you should pay child support.

Do I still have to pay child support while the court is deciding?

If you have applied to the court for an order about child support, you must continue to pay child support to the CSA, but the CSA will suspend payments to the other parent until the application is finalised. You must tell the CSA you have made an application.

This minimises the risk of payments being made to the other parent which may have to be repaid to you if your court action is successful. Previously, the CSA had discretion to suspend payment or not.

If the application is successful, the CSA will return any money it is holding to you. If the application is unsuccessful, the payments will be made to the other parent.

Do I still have to pay child support if the application is successful?

If the court makes a declaration that you are not liable to pay, the assessment for that child is cancelled (i.e. as if the assessment for that child had never been made). No ongoing child support will be payable.

What happens about money CSA had already paid to the other parent?

Previously, you had to apply to the court separately for an order for repayment. From 1 January 2007, the court is able to make an order about repayments at the same time as making the order about parentage. The court will not automatically order child support to be repaid.

If the court orders repayments it can be registered as a maintenance liability with the CSA for collection from the person who received the child support. Previously, the CSA was not able to recover these payments and the person had to make their own arrangements to recover the payments privately or through a court.

Where do I find more information?

For more information, contact the CSA by calling 131 272 or visiting www.csa.gov.au

For more information on the child support reforms, visit www.australia.gov.au/csa

If you'd like to read more information on the Taskforce and how the reforms came into being, visit the website of the Australian Government Department of Families, Community Services and Indigenous Affairs - www.facsia.gov.au

