

4 Support

4.1 Child support

The parents must contribute to the maintenance of a child proportionately according to their best efforts, considering the child's aptitudes, abilities, inclinations and possibilities for development.

The obligation to support the child exists until the child is able to support itself:

- Own income of any kind (not only earned income) reduces the maintenance claim.
- The parent who runs the household in which the child lives thereby provides maintenance (maintenance in kind).
- The other parent is obliged to pay a maintenance contribution (monetary maintenance) as far as he or she is able to do so.
- Childcare in one's own household is therefore generally considered by the law as a full maintenance contribution by the parent who looks after (or mainly looks after) the child and is treated in the same way as the payment of monetary maintenance.

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If the person obliged to pay maintenance is unable to do so, for example due to incapacity to work, the parent providing care must also pay for the lack of financial means. If both parents are unable to pay, the grandparents are to be called upon, as long as they do not jeopardize their own maintenance.

The amount of maintenance depends on the one hand, on the age and needs of the children and, on the other hand, on the income and (other) care obligations of the person liable to pay maintenance. For the calculation of reasonable maintenance, the percentage method is usually used, which takes the net income of the parent working full-time, as the basis for assessment. Although used in practice, the percentage method has no legal basis. In this respect, it is to be understood as an upper limit of the debtor's ability to pay maintenance.

Accordingly, a father of a child has to pay a percentage of his net income for his child aged

- up to 6 years 16%
- 6 - 10 years 18%
- 10 - 15 years 20%
- from 15 years 22%

until the child becomes self-supporting.

If there are several dependent children, 1 % (under 10 years) or 2 % (over 10 years) per child is to be deducted from the percentages above.

In case of further competing duties of care (e.g. for the mother of the children), these percentages are reduced by a further 1 - 3 % per child.

4.1.1 When is a child capable of self-support?

One is capable of self-support, when one has completed vocational training or studies. However, the child must also be given a reasonable amount of time to find a job. A course of study should be completed in the usual average time for the respective field of study; a one-time change of study or training, if the initially chosen course of study does not correspond to the child's inclinations and aptitude, does no harm. However, if a child has already completed vocational training and then wishes to study, the parents are then only liable to pay maintenance in special cases, for example if the child is particularly suitable for the course of study and greatly improved career opportunities are to be expected after a degree.

If the income situation changes significantly, the child maintenance can be adjusted. An increase in maintenance can be considered, if the child's father earns a significantly higher income or if the child has greater needs as it grows older.

A reduction in maintenance can be requested, if the child's father earns a lower income, has additional care obligations or the child entitled to maintenance has a creditable own income. An apprentice's salary, for example, would have to be credited to a child entitled to maintenance or its mother entrusted with custody.

4.1.2 What are considered special needs?

Special needs are expenses that exceed the average need, i.e. such costs that are incurred only exceptionally. These are expenses for health and personal development (training, talent, promotion, education). For example, the following are recognised:

- Boarding school (only if there is no equivalent institution in Liechtenstein).
- Acquisition costs; e.g. for a computer that is necessary for the education.
- Learning therapy
- Speech therapy
- Musical instrument for a particularly gifted child
- Necessary school events that serve school purposes; e.g. language holidays that are necessary for school graduation

In addition, there are special medical expenses, such as

- Dental adjustment and special treatments
- Glasses
- special foods due to illness
- ...

as far as they are not reimbursed by the IV (disability insurance) or health insurance. The special needs are to be carried proportionally by the parents, i.e. the parent who mainly cares for the child can demand 50% of the part of the treatment costs not reimbursed by the health insurance from the other parent in addition to the current child maintenance.

Such expenses, which are not specifically related to the person of the child, but are usual for leisure activities (school trips, bicycle, tennis or skiing equipment, sports shoes, etc.) are already to be considered in the assessment of the normal maintenance and are therefore in principle to be paid from the current maintenance. From this, savings for such larger purchases must be made on an ongoing basis.

When covering special needs, it must always be taken into account that the person obliged to pay maintenance has an income left over, so that he or she can still satisfy his or her own needs. Generally, the more a special need is prevalent, the more likely it is, that the debtor will be burdened with it.

4.2 Spousal maintenance

4.2.1 Assessment criteria

Maintenance must be paid to the other spouse if the latter cannot support himself or herself. The Marriage Act lists several criterias for the duration and assessment of maintenance:

- division of duties in the marriage
- duration of the marriage

- age and health of both spouses
- income and financial circumstances
- occupational potential
- childcare etc.

In the case of a childless short marriage (less than five years), there is generally no claim to maintenance, since as a rule no "marriage-related disadvantages" have occurred. Such marital disadvantages, on the other hand, are always to be assumed if one spouse was responsible for raising the children and therefore did not work full time.

As soon as the joint marital household has ceased to exist, maintenance can be requested from the court (so-called interim or separation maintenance). The final maintenance is determined in the divorce decree, which, in the case of amicable divorces, is based on the agreement submitted to the court.

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4.2.2 Duration of maintenance

The maintenance claim is limited in time. If minor children are being cared for, maintenance is usually limited when the youngest child reaches the age of 16. If the person entitled to maintenance enters a new marriage, maintenance ceases altogether. In the case of a new civil partnership, maintenance is suspended for as long as the partnership continues. In both cases, the person previously liable to pay maintenance must assert the termination of maintenance with the court. A civil partnership is to be assumed if the partners maintain an intimate relationship with each other, live together and assist each other, etc., generally; as if they were living together. In principle, they live together as would be expected of spouses under the same conditions.

A maintenance creditor may also forfeit the maintenance rightfully established if he or she is guilty of serious misconduct towards the debtor after the divorce. The misconduct must be particularly serious and violate interests of the debtor worthy of protection, e.g. prostitution or continued influencing of the joint children, to refuse contact with the father.

4.2.3 Adjustment of maintenance

If there is a substantial and lasting change in income and financial circumstances, the court may, on complaint, increase, reduce, cancel or suspend maintenance for a certain period of time. If the income situation of the spouse entitled to maintenance improves, the maintenance cannot be reduced to the full extent of the additional earnings, since - according to case law - the spouse entitled to maintenance would be deprived of the incentive to ensure his or her economic betterment. In such cases, the maintenance creditor only has to accept 50% of the additional earnings.

4.3 The principle of "stretching" in maintenance law

A person who has maintenance obligations (whether child or spousal maintenance) must use his or her powers ("strain") to obtain an income from which he or she can pay maintenance. With the exertion of his or her power (in the case of the debtor), maintenance can be assessed based on a fictitious income that is achievable, although not actually achieved. However, the person entitled to maintenance (whether spouse or child) must also allow himself/herself to be "stretched" to a reasonable (attainable) higher income.

Individuals obligated to provide financial support often attempt to avoid fulfilling their responsibilities towards their children or spouse by either reducing their income or stop working. This approach should

be rejected and does not ensure success: in such cases, maintenance is not assessed according to the actual income, but according to a fictitious income that he or she could achieve if he or she pursued reasonable employment.

However, problems can inevitably arise if the maintenance determined in this way were to be claimed or enforced, since one can only seize an actual income and not a fictitious one. Cases where someone gives up a well-paid job to become self-employed or retrains for a better job are also problematic. Such retraining and further education measures can be in the interest of the family, especially since children and spouses would have to accept certain restrictions even if the marriage remained intact in order to benefit from the career advantages of the other - at least in the long term.

4.4 Interim maintenance

In connection with divorce proceedings or a maintenance claim, so-called provisional maintenance can also be applied for; i.e. subject to another final decision, provisional maintenance is awarded to the person who can certify a breach of the maintenance obligation. This remains intact, until a final decision on the amount and duration of maintenance has been made.