

## Guide to increased obligation to find work

As a parent liable to pay child support - sometimes referred to as child maintenance - you have an **increased obligation to find paid work**. If you fail to make a reasonable effort to find a paying job, you cannot then use the 'can't pay' defence available elsewhere under child support legislation.

Instead, your child support obligations will then be calculated on the basis of notional earnings<sup>1</sup>.

What does this mean?

It means that your maintenance obligations will be calculated on the basis of what you could have earned in a job in line with your qualifications or your previous career.

Such notional income will come into play in cases where the child support debtor is reasonably assumed to act without due care and consideration.

Changing jobs:

A case in point is where the debtor is changing jobs. If you transfer to lesser-paid work without a good reason, the maintenance payments you owe will still be based on what you earned in your previous job.

Your payment obligations increase if your child/children is/are underage. You will then be expected to accept work not normally in line with your qualifications or previous career. **In other words, you must accept a job offer even if you think you are overqualified.** This includes side jobs and overtime. You are also expected, within reason, to move to a different place or change career paths or professions.<sup>2</sup>

Unemployed:

The obligation to pay child support to minors dictates that you need to write **at least 20 job applications every month.**<sup>3</sup>

Those obliged to find paid work must make every effort and use all options continuously over a longer period. This means that you must **show initiative and be proactive**. Your job

<sup>1</sup> High Court (Bundesgerichtshof) judgment of 22 October 1997 (XII ZR 278/95).

<sup>2</sup> High Court judgment of 9 July 1980 - IVb ZR 529/80; for guidance on what is reasonable, see Supreme Court (Bundesverfassungsgericht) decision of 29 December 2005 - 1 BvR 2076/03

<sup>3</sup> State Supreme Court for the Cologne judicial district [Oberlandesgericht Köln] decision of 29 January 2010 - 4 WF 6/10

applications as well as your selection of potential employers must show your willingness to find – and hold down – a suitable job. Your commitment to finding paid work is in doubt if you merely make phone calls or personal visits to potential employers.

In a similar vein, you must not limit your job-seeking endeavours to a too narrow field. Rather, you will be asked to consider all available occupations. **Failure to do so might lead to that notional income being imputed.**