

Maintenance Allowance Calculation for Children

Description

By Dagnachew Tesfaye, Managing Partner at DMLF

Introduction

The Federal Supreme Court of Ethiopia issued a directive to determine the manner of calculation of maintenance allowance for children. The rough translation of the Amharic name for the Directive is Calculation of Maintenance Allowance for Children Directive Number 1/2024. (hereafter the Directive). The Directive shall be effective as of August 08,2024 subject to a two month preparation time. The Directive is divided into six(6) parts and incorporates a total of 31 articles. In addition to this, an annex is attached that shows a table of percentage of maintenance calculation based on monthly income. This article focuses on the overall contents of the directive and a brief conclusion shall follow.

General

The Directive applies to all levels of the Federal Court. The Directive in principle is a guide for calculation of maintenance for children. However, the Directive could be used for majors who are unable to support themselves due to health, disability or other causes. The objective of the Directive is to provide for predictable and similar calculation of maintenance for Children across the Federal Courts.

Expenses

The expenses for food, shelter, clothing, health, education and special needs of children as the case may be, shall be considered in the calculation of the maintenance. When deciding on maintenance, judges have to evaluate the number of children, life situation, age, special needs and health issues of maintenance receivers vis-a vis the age, capacity, income and life circumstance of the provider of the maintenance. The judges should consider the expenses of parents before separation in determining the amount at post-separation. Maintenance shall be paid in cash. As an exceptional circumstance and if it fulfills the best interest of the child, maintenance can be made in kind. In addition to that whenever a special situation of the child demands, the court can enter into a decision for a specific additional amount. The additional support and maintenance allowance aims to cover the special circumstances emanating from recreation, sport activities, education needs, hiring of nannies, buying of special items or hiring of specialists, health and medication follow ups. When there are children living with each parent that were separated, the amount of maintenance shall be calculated based on the capacity of each parent's income and the difference of what each parent spends.

Calculation

The judges should adhere to the calculation annex attached with the Directive, unless there are harsh circumstances on the child that are proved by evidence or the maintenance provider has faced harsh problems backed by evidence. The court, upon application by a party, can change the amount of maintenance, either increasing or decreasing, as the case may be, based upon evidence that is sufficient and convincing. The court shall investigate the amount of income and expense of the

maintenance provider and receiver. In doing so the court shall give the chance for the maintenance provider and receiver to mutually agree and come up with a written statement of their income and expenses. However, if the parties cannot reach an agreement, the court can investigate the income of the maintenance provider from the employers, professionals or institutions or witnesses.

Obligations

The maintenance provider and maintenance receiver bear an obligation. The maintenance receiver has the obligation to present to court in his or her application the known income sources of the maintenance provider and list of expenses needed to raise the child. The maintenance provider has the obligation to provide accurate information under oath about his/her income and expenses. More so, the maintenance provider should pay on time and at an agreed place.

Conclusion

The Federal Supreme Court came up with the maintenance allowance calculation for Children directive in order to make the court procedure of decision on maintenance reasonable, predictable and similar from one court to another. Hence, at the time this Directive comes into effect, those pending cases in court of law could be seen under this Directive.

For inquiries on maintenance allowance you may contact us at info@dmethiolawyers.com

Dagnachew & Mahlet Law Firm LLP

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dmethiol_admin

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