

For most Canadians, the courts will use the child support guidelines when deciding the amount of support.

Use this Form if:

- you think you should pay an amount that is different from the child support guidelines table amount, and are asking the court to order a different amount. You will also need to fill out Form K and a number of other Forms.

Filling out the Form

The court might consider one or more of the reasons set out on this Form to decide that an amount different than the child support guidelines table amount should be ordered.

NOTE: If one of the parties resides in Québec, different rules may apply. Please refer to the Justice Québec website for more information:

www.justice.gouv.qc.ca/english/accueil.asp

Also, the rules explained in this Form may not apply if one of the parties resides in another country.

As this is your application to pay an amount that is different than the child support guidelines table amount, you will need to attach documents to show why the amount should be different.

Tips

- The Forms you submit as part of your application will organize your information for the court. You should include as much information as possible so that the court can make an informed decision.
- All support order applications require you to complete either Form A.1 or A.2.
- Use the tables included in the FormSupport Introduction and General Information at <http://www.gov.pe.ca/jps/index.php3?number=1028842&lang=E> to determine the additional Forms you need to complete.
- Use a working copy and a final copy when completing these Forms. To ensure that the final copy is neat and legible, only complete the final copy when satisfied with your responses.
- Include all copies of receipts, documents and other evidence that will help prove statements and claims you make. Documents provided will form part of the evidence for the matter and cannot be returned.
- Receipts and documents may contain address information that you may wish to remain confidential. If you choose to conceal the address information, ensure that you keep the originals in case the court requires that you provide them.
- After completing all of your Forms, you must swear to the accuracy of all the information that you provided – just like if you were in court providing the evidence in person.

For more information on family justice matters, visit

<https://www.princeedwardisland.ca/en/information/family-law> or www.Canada.ca/family-law.

The Child Support Guidelines Office is a free government service that can assist Islanders who represent themselves to finalize their ISO forms. For more information, call (902) 368-6220 (Charlottetown) or (902) 888-8188 (Summerside).

Child Support Guidelines in Canada

Child support guidelines are a set of rules and tables to apply when determining child support. The guidelines include very detailed tables, specific to each province and territory, which provide the amount parents should pay.

The courts must follow the applicable child support guidelines, unless there are special circumstances.

The Department of Justice Canada has a publication, *The Federal Child Support Guidelines: Step-by-Step*, which contains general information about child support, including guidance on determining which guidelines apply to you. The publication may be accessed from the following website: www.Canada.ca/family-law.

Section 1

Undue hardship claim

If, as the person paying support, you make a claim for undue hardship, you are asking the court to order support that is **lower** than the child support guidelines table amount because of special circumstances that may cause undue hardship according to the child support guidelines.

The court looks at undue hardship claims in two parts. The first is whether the child support guidelines table amount would, or does, cause you, or your child(ren), undue hardship. The second is if your household standard of living would be, or is, lower than the Respondent's household standard of living if the guidelines amount is or was ordered. If you are filing an undue hardship

claim, check the box for Section 1. Next, you will see a list of circumstances that may cause undue hardship according to the child support guidelines. Check the boxes for the reasons that apply to you. You may check more than one. Provide additional information and/or documents as requested. If you file an undue hardship claim, you must also complete Form I.

If you can show that one or more of the circumstances in the list apply to your situation, the court will look at the standards of living for the households of both parents. You must provide information about the income of every person who lives with you and specify the number of adults and children residing in your household. The court will not change the guidelines amount, if the standard of living of your household is higher than the standard of living of the Respondent's household.

Example:

Louis is having a hard time making ends meet, and is behind in his support payments. He and his new wife have just had a baby and his wife is not working. His company just moved its offices to another city and he has a longer and more expensive commute.

Louis wants the court to make a new order. His finances have changed since the first order was made and he believes that his circumstances are causing him to suffer undue hardship.

He also believes that his household has a lower household standard of living than the household of his former partner (who is raising their child). His former partner has re-married, and both of them are working.

Louis' application will include this Form as well as other Forms. He will fill out Form I (financial statement) to show the court the income and expenses for everyone in his household. He will check off any of the reasons listed in Form G and provide details or documents. He will also suggest an amount which he thinks is reasonable based on his situation, as well as what he knows about the Respondent's finances.

If you make an undue hardship claim, the court in the jurisdiction where the Respondent lives will make a decision. That court will get a financial statement from the Respondent, compare both household incomes and decide the amount of support you will pay.

Section 2

Child over the age of majority

If your child is at or over the age of majority (18 in PEI), you may choose to treat the situation as if the child were under the age of majority. If you think the guidelines are not suitable, you may request to pay a different amount of child support taking into account the child's needs and means and other circumstances, and your and the other parent's financial ability to contribute.

NOTE: The age of majority is usually determined by the laws of the jurisdiction where the child resides. If you cannot agree whether a child who has reached the age of majority is a dependent for whom child support should be paid, either parent can ask a judge to decide.

If the judge finds that the child is entitled to support, then he or she may apply the guidelines amount or set another amount after taking into account the age of the child

and the means, needs and other circumstances of the child and the income of you and the other parent.

Example:

Keeshia and Lavar's child, LJ, is over the age of majority. LJ has graduated high school, works part-time at the local recreation centre and attends community college part-time.

Lavar thinks he should pay less than the guidelines amount for LJ because LJ should be able to contribute to his own support.

If you check this box, complete and attach Form J and fill out the appropriate section on this Form with information for each child. In addition, as you are applying to change a previous court order, it is recommended that you also complete and attach Form K. If the Respondent disputes your claim, and you have not done so, the court may not have enough information to make a decision.

Section 3

Split custody

This means **there are two or more children, and at least one child lives with each parent.** When this happens, each parent has a duty to support the child(ren) that live with the other parent, based on the child support guidelines.

Check this box if you have a split custody arrangement. Describe your custody arrangement or attach a copy of your custody order or written agreement.

Then, fill in the table and calculate how much support may be payable to you from the other parent. You may complete and attach Form D

to determine and prove the Respondent's known or imputed income.

Example:

When Barry and Emily separated they decided that both children would live with Emily. Things have changed and the older child has moved to live with Barry. Barry is making a claim for a support amount different than the guidelines table amount. Emily makes about \$28,000 a year and Barry makes \$39,000.

In the chart, Barry will write down Emily's income and use the applicable child support guidelines to determine how much child support he would pay if she were raising one of their children.

Next, Barry would use the child support guidelines to determine how much child support Emily would pay him if he were raising one of their children.

He would then subtract her amount from his amount and write the figure in the chart. *The* new figure would represent how much child support Barry thinks he should be paying now that one child is living with each parent.

Section 4

Shared custody

This means the person paying support must **have the children in his/her care for at least 40 percent of the time over the year.** This is very uncommon when one of the parents lives in PEI and the other parent lives in another province, territory, or outside of the country.

For shared custody, the court will look at:

- the table amount for each parent;

- the increased costs of shared custody arrangements; and
- the conditions, means, needs and other circumstance of the child and of each parent.

You can ask to pay a support amount, and the court will decide whether it is reasonable, or if another amount is fair. If you choose this option, describe the custody arrangement or attach a copy of your custody order and complete the table to indicate how much child support you are asking for.

Example:

Michelle and Robin have one child, Ethan. Michelle lives in Borden, PEI, and Robin lives in Moncton, New Brunswick.

Ethan spends the summers with Robin, as well as 3 weekends per month and most extended holidays during the school year. Robin and Michelle have not been able to decide on an amount of support that one should pay the other, so Michelle is asking the court to decide.

Their calculations for how much time Ethan spends with Robin could look like this:

Summer Days		
Number of weeks with Robin	Multiply by number # of days per week with Robin	Total days with Robin
10	X 7	= 70
Non-Summer Days		
Number of weeks with Robin	Multiply by number # of days per week with Robin	Total days with Robin
42	X 2	= 84

Since there are 52 weeks in a year, and Ethan spends 10 weeks each summer with Robin, which leaves 42 weeks where he spends on average 2 days per week with Robin. So, Ethan spends 154 total days (70 + 84) per year with Robin. Since there are 365 days in a year, they can determine the percentage of days he spends with Robin by dividing 154 into 365 = 42%.

NOTE: This is just one example. You could choose another means of determining the time spent with each parent.

Section 5

My income is over \$150,000 per year

If your income is more than \$150,000 per year, you or the court may choose to use the guidelines table amount which includes a percentage calculation for incomes over

\$150,000. You can use this percentage to claim an amount in Section 5. If you or the court considers that approach to be inappropriate, you or the court can apply the table amount for the first \$150,000 and for the balance, set an appropriate amount based on the conditions, means and other circumstances of the children and financial ability of you and the other parent to contribute to the support of the child(ren).

Finish the Form

Finish completing the Form by signing where indicated. Make sure you attach all additional Forms and documents that you were requested to complete while filling out the Form.