

Spousal Maintenance

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WHAT IS IT?

Financial Support of a former spouse after separation primarily due to age, health, income disparity, care of children or any other adequate reason.

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HOW MUCH?

There is no formula to allow exact calculation. Every situation is different.
If a negotiated amount cannot be agreed, a court application may be required.

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WHO IS ELIGIBLE?

Spousal maintenance is not an automatic right upon separation. It depends on the financial need of the Applicant and the higher income Respondents 'capacity to pay'.

WHAT IS CONSIDERED?

Some of the things that the Court will take into account for each party:

- The spouses' income, financial resources and ability to obtain work;
- Their financial needs and obligations;
- Their eligibility for social security payments;
- Their age and health;
- Whether either spouse is caring for a child under 18 years;
- Length of the marriage;
- The terms of any property settlement;
- and any other relevant factor.

WHAT ELSE YOU NEED TO KNOW:

- The spouse seeking spouse maintenance has an obligation to pursue employment and to try and meet or at least reduce their 'reasonable financial needs'.
- An Order for spousal maintenance can be varied at any time if there has been a change of circumstances.
- A spouse maintenance order ceases upon the death of the payer or recipient, the recipient's marriage or change of financial circumstances; unless the Court makes a continuation order, which is rare.
- The only way that a party's ability to make an Application for spousal maintenance can be extinguished is by entering into a Financial Agreement. The effect of a Financial Agreement, if it deals with spouse maintenance, is to oust the jurisdiction of the Court to deal with any future spouse maintenance applications.

TIME LIMITS:

If a negotiated agreement cannot be reached, a spouse may apply to the Court for a spouse maintenance order against the other spouse at any time after their marriage/ defacto relationship; or up to 12 months after the divorce order (if married); or up to 2 years after the date of separation for a defacto relationship.