



Spousal maintenance

In some circumstances it is appropriate that one party to a relationship pays financial support to the other after the relationship has ended. This is known as “spousal maintenance”.

The most usual circumstance where it is paid is where, following separation, there are few assets to distribute between the parties, but one party has an income while the other party (the “needy party”) has little to no income as a result of the separation. If this has the effect that the needy party has inadequate means of supporting themselves, while the income earning party has the capacity to provide that support, then, provided it would be fair in the circumstances, the higher income party should provide financial support to the needy party. The support may be for a fixed period of time, indefinitely, or until the occurrence of a specific event. In determining whether the needy party is able to adequately support themselves, the Court will consider:

- their age and health;
- their income, property and financial circumstances (Centrelink benefits not included);

- their ability to work;
- what a suitable standard of living is for them;
- if the marriage has affected their ability to earn an income; and
- whether there are children under 18 who live with them.

If it is appropriate in your circumstances for a party to pay spousal maintenance, it can be done so pursuant to a Court order or by agreement. In some cases, spousal maintenance is paid in a lump sum rather than over a period of time. When this occurs, it will be included in the actual property settlement, usually expressed as a specific percentage distribution rather than an ongoing payment.

Whether it is you or your ex-spouse who is seeking spousal maintenance, you should consult a lawyer to get an accurate idea about entitlements and how to give legal effect to a maintenance order or agreement.