



Maintenance

Who is Maintenance payable for?

There is a legal responsibility in Ireland on both spouses to maintain each other and on parents to maintain their children in accordance with their means.

Is there a definition for the word child?

Child maintenance is payable for a child up to the age of 18 or to the age of 23 if the child is in full time education. If the child has a mental or physical disability to such a degree that it will not be possible for the child to maintain him/herself fully, then there is no age limit on the maintenance payments.

What is standard Maintenance here?

A standard rate of child maintenance payment does not exist here currently but the District Court has the power to award maintenance of up to €150 per week per child and up to €500 per week per spouse. If someone is seeking higher maintenance than this they will have to apply through the Circuit Court.

What is Spousal Maintenance?

A married person can seek maintenance following the breakdown of the marriage.

The obligation to maintain and support a husband/wife continues even if the person paying the maintenance remarries and takes on the responsibility for the support of a new spouse and dependent children. Subject to the terms of any agreement reached or to the terms of a court order, a husband/wife only stops being responsible for the maintenance and support of the person receiving the maintenance when that person dies or remarries.

If father and mother are working and custody is given to father, does Spousal Maintenance apply to the father?

We deal with situations where a mother pays maintenance to a father. The rights are the same, irrespective of whether the father or the mother is financially dependent on the other.

Is there Legal Aid for someone who wants to go to Court for Maintenance?

There is free legal aid granted to anyone who is earning less than €18,000 per year.

If a couple were not married, but co-habited are they entitled to Maintenance?

Prior to January parties were only entitled to spousal maintenance if married.

This all changed with the new Civil Partnership Act. Under the Civil Partnership Act a cohabiting couple must have lived together in an intimate and committed relationship for five years or two years if the parties have children together. A cohabiting couple do not have automatic rights. They must show financial dependency as a result of the relationship and its demise and it is a matter for the Courts to decide who "qualifies" as a cohabiting couple. The Court does, if the parties qualify, have the power to award maintenance to an ex-partner.

How does the Court decide on the level of Maintenance?

The Judge will look at the individual circumstances of each case and the Judge will decide what maintenance would be appropriate. Each party will have filed, in Court, an Affidavit of Means setting out their income and expenditure and the Judge will look at each of these in detail and it comes down to needs versus resources. What does one party need and what can the other party afford.

When a Maintenance Order is made, how is the money paid?

The maintenance can be paid by standing order directly between the parties' bank accounts or it can be paid through the District Court Office. The advantage of it being paid through the District Court Office is that the District Court Clerk will monitor the payments and will pursue the payer if he/her defaults. The District Court records all payments so a print out of these is available to either party on request

What recourse is there if Maintenance is not paid as required?

In cases where a spouse fails to comply with a court order and does not pay the amount awarded, an Attachment of Earnings Order can be sought from the Court. This order results in the maintenance amount being deducted at source by the spouse's employer. The employer has to comply with this otherwise he would be held in Contempt of Court.

If the spouse is self-employed, an Enforcement Summons can be applied for. When that person comes before the Court the Judge can, if he has no Defence, imprison him or her for a maximum period of three months.

For More Information

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