

Spousal Maintenance

Upon separation there is no automatic right to receive or a requirement to pay spousal maintenance.

The *Family Law Act 1975* provides that one party to the marriage is liable to maintain the other party to the marriage to the extent that one party can reasonably do so and if, *and only if*, the other party is unable to support her/himself adequately.

There are number of factors which the Court looks at in determining whether one party is able to adequately support themselves or not. Some examples may be the fact that one party has the care and control of the children or by reason of age or physical or mental incapacity and is unable to obtain appropriate gainful employment. It is important to remember that even if one party is unable to adequately support themselves then the other party is only liable to support that party so far as they are reasonably able to do so.

The Court in determining a liability for spousal maintenance and the amount of spousal maintenance looks to a variety of factors in the *Family Law Act 1975*.

In certain situations, the Court also has the power to award spousal maintenance in a lump sum, rather than periodic maintenance.

The Family Court also has the power to make urgent and interim Orders for spousal maintenance until a final Trial is reached.

De Facto partners can now also be compelled to pay maintenance to the other partner after separation under the same provisions that apply to separated married couples.

We can advise you specifically as to your right to receive, or potential liability to pay, spousal maintenance. Contact us to make an appointment and find out your rights when it comes to Spousal Maintenance in your separation.

Disclaimer: © 2015 Hartley Healy

This information sheet does not give legal advice. Information sheets are produced by Hartley Healy Lawyers; they provide general information only on relevant topics of interest in relation to Family Law current at the time it is produced. No reliance should be placed on such general information as contained on www.hhfamilylaw.com.au and in the information sheets. Legal advice should be sought about the particular circumstances of your particular case.