

FAQs - Spousal Support

Do I qualify for spousal support?

Under Federal and Provincial legislation, a Court first considers whether either spouse has an entitlement to spousal support. If the Court determines that one of the spouses is entitled to spousal support, the Court next considers the duration and amount of spousal support that should be paid. Some of the factors that Courts consider to determine whether there is an entitlement to spousal support are:

- 1) The financial means and needs of both spouses;
- 2) The length of the marriage;
- 3) The roles of each spouse during the marriage;
- 4) The effect of those roles and the breakdown of the marriage on both spouse's current financial positions;
- 5) The care of the children;
- 6) The goal of encouraging a spouse who receives support to be self-sufficient in a reasonable period of time; and
- 7) Any orders, agreements or arrangements already made about spousal support.

The Courts must also consider whether spousal support would meet the following purposes:

- 1) To compensate the spouse with the lower income for sacrificing some power to earn income during the marriage;
- 2) To compensate the spouse with the lower income for ongoing care of children;
or
- 3) To help a spouse who is in financial need if the other spouse has the ability to pay.

At the same time, the Courts must consider that a spouse who receives support has an obligation to be self-supporting, where reasonable

How much spousal support is appropriate?

The issue of spousal support entitlement, duration and amount is complex and requires the assistance of experience legal counsel. The amount of spousal support will depend on all of the factors listed above, as well as comparisons to similar cases.

For how long should spousal support be paid?

The duration of spousal support will also depend on the factors listed above. Please contact our office if you have any questions about entitlement, amount and/or duration of spousal support.

What are the Spousal Support Advisory Guidelines?

The Spousal Support Advisory Guidelines were created in an attempt to create some certainty for spousal support calculations. The Guidelines propose a range for duration and amount of spousal support, depending on the specific circumstances of each case, including the factors referred to previously, The Guidelines are useful in establishing a starting point for negotiations between the parties and their respective counsel regarding the issue of spousal support.

Can the amount of spousal support paid be changed?

It depends on the terms of the original Agreement or Order. Some Agreements contain a term stating that the amount of spousal support cannot be changed for any reason. If you wish to vary the amount of spousal support, you will need to prove that there has been a significant material change in the circumstances, means or needs of either party since the granting of the original Order or the signing of the original Agreement

How do I enforce payment of spousal support?

You can enforce payment of spousal support the same way that you can enforce the payment of child support, by registering with the Maintenance Enforcement Program (MEP). The Maintenance Enforcement Program will enforce any Court Order for support. MEP does not enforce Agreements, only Court Orders.