

MAINTENANCE

Leaflet No. 6



LEGAL AID BOARD

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What is maintenance?

Spouses/civil partners are required to financially maintain each other having regard to their means and needs. Maintenance is financial support paid by a person for the benefit of their spouse/civil partner and/or dependent children.

Can I apply for maintenance from my spouse/civil partner even if I am living with them?

A spouse/civil partner can apply for maintenance even if living with the other spouse/civil partner.

Can I apply for maintenance from my ex-partner if we are not married?

You can normally only apply for maintenance for the support of your children in such circumstances. However, if you are a “qualified cohabitant” you may be able to apply for maintenance for your own support. To be a “qualified cohabitant” you must have lived with your ex-partner for at least two years if you have children or at least five years if you do not. In addition, you or your ex-partner cannot be married to someone else, or if either of you are, the person(s) that is (are) married must be living apart from their spouse for at least four of the last five years. See **Leaflet No. 16– Rights of Cohabitants** for further information.

Who is responsible for the maintenance of children?

Both parents, whether married or not, are responsible for the maintenance of their children.

Who can apply for the maintenance of a child?

A parent, legal guardian, the Health Service Executive, or any person holding legal status in relation to a dependent child may apply for maintenance in respect of that child.

A dependent child is:

- a person under eighteen years;
- a person under twenty three years who is in full time education; or
- a person dependent on his/her parents due to a disability.

What can I do if we cannot agree on maintenance?

In that case, you need to apply to court. You can apply to either the District or Circuit Court. Which court you apply to depends on the **amount** of maintenance you are looking for.

The District Court

At present, the District Court may award any amount up to €500.00 per week for a spouse/civil partner and €150.00 per week for each child.

The Circuit Court

You must apply to the Circuit Court if you are looking for more than €500.00 for a spouse/civil partner and more than €150.00 per week for each child.

Can both the District and Circuit Court make lump sum orders for maintenance?

Both the District and Circuit Court can make lump sum orders for maintenance although, at present, the District Court cannot make an order for more than €15,000.

How can maintenance be paid ?

A maintenance order may require one person to pay maintenance directly to the other person either in cash or to a bank or other account. A court may also order that maintenance be paid to the District Court clerk who then passes it on to the person receiving it. The advantage of this is that, where maintenance is in arrears the District Court clerk will try to enforce payment, rather than the receiving party having to do so.

What can I do if the maintenance due to me is not being paid ?

If the maintenance is not paid you can apply to court for:

- an attachment of earnings order. This can only be made if the paying party is employed. The attachment of earnings order directs his/her employer to deduct the maintenance from his/her earnings and send it to the court clerk or the receiving party; or
- an enforcement order for arrears of maintenance. This can be made whether or not the paying party is employed. The court may issue a warrant for the arrest of the paying party if they fail to appear in court after the enforcement proceedings are served on him/her. The ultimate sanction is that the paying party may be imprisoned if it is proved to the court that he or she is unwilling rather than unable to pay.

Social welfare benefits

If you apply to the Department of Social Protection for social welfare payments, you may be asked by that Department to apply for maintenance, if you are entitled to maintenance, but are not receiving any.

How can maintenance be changed or ended?

A person paying or receiving maintenance may reapply to the court that made the maintenance order for:

- A variation of the maintenance order, i.e. a change in the amount of maintenance, for example, a person might look for a greater amount.
- Discharge of a maintenance order which means ending the obligation to pay. Generally, these applications are made where there has been a change in the paying party's circumstances since the order was first made.
- If the discharge is being applied for because the person paying the maintenance is unable to pay, they will need to prove this to the Court.

The Court may also decide to vary the maintenance when it is dealing with an enforcement application and it is clear that circumstances have changed since the making of the maintenance order.

Is it possible to get maintenance from people living in other countries ?

It is possible to get and enforce a maintenance order against people living in **certain** foreign countries. Further information in relation to getting maintenance from a spouse or partner who lives abroad can be obtained from your local law centre.

FULL-TIME LAW CENTRES

CAVAN	Newcourt Shopping Centre, Church Street, Cavan.	Tel: (049) 433 1110 Fax: (049) 433 1304
CLARE	Unit 6A, Merchant's Square, Ennis, Co. Clare.	Tel: (065) 682 1929 Fax: (065) 682 1939
CORK	Law Centre, 1A South Mall, Cork. Law Centre (incorporating Refugee Legal Service), North Quay House, Popes Quay, Cork.	Tel: (021) 427 5998 Fax: (021) 427 6927 Freephone: 1800 202420 Tel: (021) 455 1686 Fax: (021) 455 1690
DONEGAL	Letterkenny Town Centre, Justice Walsh Road, Letterkenny, Co. Donegal.	Tel: (074) 912 6177 Fax: (074) 912 6086
DUBLIN	45 Lower Gardiner Street, Dublin 1. 48/49 Nth. Brunswick St./Georges Lane, Dublin 7. 44/49 Main Street, Finglas, Dublin 11. Tower Centre, Clondalkin Village, Dublin 22. Village Green, Tallaght, Dublin 24. Unit 6-8, Business Centre, Clonsilla Road, Blanchardstown, Dublin 15 . Medical Negligence Unit, 7-11 Montague Court, Montague Street, Dublin 2. Refugee Legal Service, 48/49 Nth. Brunswick St., Georges Lane, Dublin 7. Dolphin House Service, Dolphin House, East Essex St, Dublin 2.	Tel: (01) 874 5440 Fax: (01) 874 6896 Tel: (01) 646 9600 Fax: (01) 646 9799 Tel: (01) 864 0314 Fax: (01) 864 0362 Tel: (01) 457 6011 Fax: (01) 457 6007 Tel: (01) 451 1519 Fax: (01) 451 7989 Tel: (01) 820 0455 Fax: (01) 820 0450 Tel: (01) 477 6200 Fax: (01) 477 6241 Freephone: 1800 238343 Tel: (01) 646 9600. Fax: (01) 671 0200 Tel: (01) 888 6998. Fax: (01) 888 6007
GALWAY	Law Centre, 9 Francis Street, Galway. Law Centre (incorporating Refugee Legal Service), Seville House, New Dock Road, Galway.	Tel: (091) 561 650 Fax: (091) 563 825 Freephone: 1800 502400 Tel: (091) 562 480 Fax: (091) 562 599
KERRY	1 Day Place, Tralee, Co. Kerry.	Tel: (066) 712 6900 Fax: (066) 712 3631
KILDARE	Canning Place, Newbridge, Co Kildare.	Tel: (045) 435 777 Fax: (045) 435 766
KILKENNY	87 Maudlin Street, Kilkenny.	Tel: (056) 776 1611 Fax: (056) 776 1562
LAOIS	Unit 6A, Bridge Street, Portlaoise, Co. Laois.	Tel: (057) 8661366 Fax: (057) 8661362
LIMERICK	Unit F, Lock Quay, Limerick.	Tel: (061) 314 599 Fax: (061) 318 330
LONGFORD	Credit Union Courtyard, 50A Main Street, Longford.	Tel: (043) 334 7590 Fax: (043) 334 7594
LOUTH	Condil House, Roden Place, Dundalk, Co. Louth.	Tel: (042) 933 0448 Fax: (042) 933 0991
MAYO	Humbert Mall, Main Street, Castlebar, Co. Mayo.	Tel: (094) 902 4334 Fax: (094) 902 3721
MEATH	Kennedy Road, Navan, Co. Meath.	Tel: (046) 907 2515 Fax: (046) 907 2519
MONAGHAN	Alma House, The Diamond, Monaghan.	Tel: (047) 84888 Fax: (047) 84879
OFFALY	Harbour Street, Tullamore, Co. Offaly.	Tel: (057) 935 1177 Fax: (057) 935 1544
SLIGO	Bridgewater House, Rockwood Parade, Thomas Street, Sligo.	Tel: (071) 916 1670 Fax: (071) 916 1681
TIPPERARY	Friars Court, Abbey Street, Nenagh, Co. Tipperary.	Tel: (067) 34181 Fax: (067) 34083
WATERFORD	Canada House, Canada Street, Waterford.	Tel: (051) 855 814 Fax: (051) 871 237
WESTMEATH	Paynes Lane, Irishtown, Athlone, Co. Westmeath.	Tel: (090) 647 4694 Fax: (090) 647 2160
WEXFORD	Unit 8, Redmond Square, Wexford.	Tel: (053) 912 2622 Fax: (053) 912 4927
WICKLOW	Bridge Street, Wicklow.	Tel: (0404) 66166 Fax: (0404) 66197

Issued by the

LEGAL AID BOARD



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HOURS OF OPENING

10.00 a.m. - 12.30 p.m. & 2.00 p.m. - 4.00 p.m.

QUAY STREET, CAHIRCIVEEN, CO. KERRY.

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