

MAINTENANCE

Leaflet No. 6.



LEGAL AID BOARD

This leaflet is not an interpretation of the law.

LEAFLET No. 6

MAINTENANCE

Maintenance

Maintenance is financial support paid by a person for the benefit of a dependent spouse and / or dependent children.

Spouses are required to maintain each other having regard to their means and needs. A spouse can apply for maintenance even if living with the other spouse.

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

A parent, legal guardian, health board or any person holding legal status in relation to a child may apply for maintenance.

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.

Maintenance in various courts

Where parties cannot agree maintenance, it is necessary to apply to the District or Circuit Court depending on the amount of maintenance being sought.

At present, the District Court may award any amount up to €500.00 per week for a spouse and €150.00 per week for each child. If greater amounts are sought, it is necessary to apply to the Circuit Court.

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 €6,349.00.

Payment of maintenance

A maintenance order may direct one party to pay maintenance directly to the other party. Alternatively, the court may order that maintenance be paid through the District Court clerk who then passes it on to the receiving party. 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 it.

Enforcement of maintenance

If the paying party fails to pay maintenance in accordance with a court order, the party who is not receiving the maintenance 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.

Social welfare benefits

Where a person who is entitled to claim maintenance from another applies for social welfare payments, the Department of Social and Family Affairs may require that person to apply for maintenance.

Variation or discharge of maintenance order

A person paying or receiving maintenance may reapply to the court that made the maintenance order for a variation or discharge of the order. Variation refers to a change in the amount of maintenance, for example, a party might seek a greater amount. Discharging a maintenance order means ending the obligation to pay. Generally, these applications are made where there has been a change in either parties' circumstances since the order was first made.

Maintenance against persons outside Ireland

It is possible to get and enforce a maintenance order against persons living in certain foreign countries.

Legal Aid Board Information leaflets

Leaflet No. 1.	Civil legal aid	Leaflet No. 9.	Wills and inheritance
Leaflet No. 2.	Family law - general	Leaflet No. 10.	Customer care and complaints procedure
Leaflet No. 3.	Separation	Leaflet No. 11.	Applying for legal services
Leaflet No. 4.	Divorce	Leaflet No. 12.	Withdrawal of legal services
Leaflet No. 5.	Nullity	Leaflet No. 13.	Financial eligibility
Leaflet No. 6.	Maintenance	Leaflet No. 14.	Civil legal aid for complainants in rape and certain sexual assault cases
Leaflet No. 7.	Domestic violence	Leaflet No. 15.	Collaborative Practice
Leaflet No. 8.	Children and family law		

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WICKLOW	Bridge Street, Wicklow.	Tel: (0404) 66166 Fax: (0404) 66197

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LEGAL AID BOARD



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QUAY STREET, CAHIRCIVEEN, CO. KERRY.
LOCALL No. 1890 615200
TEL: (066) 947 1000. FAX: (066) 947 1035.

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