

Maintenance Pending Suit

A Maintenance Pending Suit Order requires one spouse to pay maintenance to the other for the duration of the divorce, i.e. until a final financial settlement is ordered.

A Maintenance Pending Suit Order can be made at any time after the divorce Application has been issued by the Court.

By its nature a Maintenance Pending Suit Application is urgent, and therefore the Court considering the Application will not go into great detail regarding the spouses means. Instead, it will adopt a broad-brush approach, concentrating upon the Applicant's immediate needs and the Respondent's available income and resources.

The Applicant's needs do not include their legal costs for the proceedings, but a separation Application for an Order that the Respondent contribute towards their lawyers' costs, known as a Legal Services Payment Order, can be made.

The Court will try to make an Order that it considers to be fair, and a very important factor in determining fairness will be the standard of living enjoyed by the parties during the marriage.

Both spouses will be required to make full disclosure of their means, and if the Respondent fails to do so then the Court is entitled to draw adverse inferences about their ability to pay.

If it later becomes clear that the Maintenance Pending Suit Order was too high or too low, then an appropriate adjustment can be made in any final Financial Remedy Order.

A Maintenance Pending Suit Order comes to an end when the final divorce Order is made. However, if the Court considers that the maintenance should continue after the divorce, then it can convert the Order into an Interim Maintenance Order, which will last until such time as the Court makes a final Financial Remedy Order.