



SPOUSAL MAINTENANCE ON MARITAL BREAKDOWN: HOW TO PROTECT THE FINANCIALLY WEAKER SPOUSE?

Tuesday 1 March 2016

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AGENDA

- London: the divorce capital of the world
- Spousal maintenance in England
- How to protect the financially weaker spouse
- International perspective
- Changes in society – change in law
- How to protect the financially stronger spouse?



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LONDON: THE DIVORCE CAPITAL OF THE WORLD



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HIGH PROFILE AWARDS



Laura Ashley boss loses latest round of £440m divorce battle with estranged wife

Khoo Kay Peng fails in bid to halt legal proceedings in England after he claims UK court would give ex-model more generous award than one in Malaysia

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HIGH PROFILE AWARDS



Ex-wife of billionaire financier handed £337m in one of Britain's biggest-ever divorce settlements decides not to appeal after being given £200m less than she wanted

- Jamie Cooper-Hohn says she will not appeal the £337m awarded in divorce
- She fought for half of the £1 billion fortune at stake at the High Court
- Judge awarded the mother-of-four a 38 per cent share following trial

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MAINTENANCE

- Two types of maintenance:
 - maintenance for children; and
 - spousal maintenance.
- Maintenance for children – formula based on gross income. Can be “topped up” by the court, provision for school fees.
- Can only continue during children’s minority or education.



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SPOUSAL MAINTENANCE

- Spousal maintenance – discretionary and decided by agreement or the court. No “formula”
- Relevant factors:
 - Needs
 - financial resources;
 - ages of the parties;
 - the standard of living enjoyed during the marriage.



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TERM OF MAINTENANCE



Maintenance For Life



Maintenance For Term



No Maintenance – Clean break



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SPOUSAL MAINTENANCE


- Spousal maintenance – discretionary, no "formula".



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SPOUSAL MAINTENANCE


- Relevant factors:
 - needs;
 - financial resources;
 - ages of the parties;
 - the standard of living enjoyed during the marriage.



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SPOUSAL MAINTENANCE

- Maintenance – principles applied by the English court
 - **Needs (most important factor)**
 - (Compensation)
 - (Sharing)



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SPOUSAL MAINTENANCE

- Maintenance always variable upwards and downwards.
- Either spouse can apply to end or "capitalise" maintenance.



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PRACTICAL STEPS TO HELP THE WEAKER SPOUSE

- Secure Jurisdiction
- Steps to secure the matrimonial home
- Interim maintenance
- Obtain disclosure and secure assets











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SPOUSAL MAINTENANCE – THE INTERNATIONAL PERSPECTIVE





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






MAINTENANCE – THE INTERNATIONAL PERSPECTIVE

1. Israel 
2. UAE 
3. Finland 
4. Japan 
5. Russia 
6. US-Texas 
7. France 
8. Scotland 

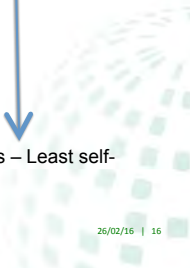

Least generous – Most self sufficient



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9. Germany 
10. New Zealand 
11. Nigeria 
12. England and Wales 
13. Republic of Ireland 
14. Singapore 
15. US-California 
16. India 


Most generous – Least self-sufficient




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CHANGES IN SOCIETY REFLECTED IN CHANGE IN LAW

WOMEN'S



EQUALITY



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CHANGES IN SOCIETY REFLECTED IN CHANGES IN LAW

- 25% of UK FTSE 100 public company directors are women, up from 12% in 2011.



CHANGES IN SOCIETY REFLECTED IN CHANGES IN LAW

Care of children is increasingly shared between the father and mother.





CHANGES IN LAW

- A growing trend for judges to require a weaker spouse to realise their earning capacity.
- The duty to consider a clean break.
- The future - a formula to calculate needs?

CHANGES IN LAW

- The future - a formula to calculate maintenance?




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PROTECTING THE “STRONGER” SPOUSE FROM MAINTENANCE CLAIMS

- Take early advice.
- Secure jurisdiction (not England).



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PROTECTING THE “STRONGER” SPOUSE FROM MAINTENANCE CLAIMS

- Pre-nuptial agreement or post-nuptial agreement.



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