

International Table 2007

	Spousal Maintenance
Australia	<p>Needs based.</p> <p>Spousal maintenance will be granted if necessary, either for a set period of time, or longer if necessary.</p> <p>Where possible court will often adjust capital rather than order ongoing maintenance payments.</p>
Belgium	<p>Maintenance is payable to spouse who requires it.</p> <p>The divorce will have to be fault based for the spouse to be entitled to this.</p> <p>Paid at a rate referable to the standard of living during the marriage, and the court will consider both spouses' resources.</p> <p>The payee's income potential is taken into account. A court will not award maintenance if it thinks that they could earn the requisite amount themselves. Likewise, if a spouse stops work simply to get maintenance payments, they will not be entitled to them.</p> <p>Does not stop automatically on cohabitation or remarriage, and depends on new partner's ability to provide financial support.</p>
Cyprus	<p>Maintenance is payable if the spouse cannot maintain himself or herself due to eg: unemployment or ill health.</p>
France	<p>Claims based on economic disparity between the parties.</p> <p>Assessment based on needs and financial resources (both present and future), age, health and duration of marriage.</p> <p>No set rules for the amount payable.</p> <p>Term of payment usually limited to 8 years.</p>
Germany	<p>General principle is that the spouses have responsibility for themselves following divorce.</p> <p>Limited maintenance payments can be awarded where necessary. These can be varied and capitalised.</p> <p>Maintenance ends on the death or remarriage of the recipient.</p> <p>Resident parent is expected to work part time by the time the youngest child is 8, and full time by the time they are 15.</p>

Italy	<p>The financially vulnerable spouse may apply for maintenance.</p> <p>The amount is determined on the basis of compensation for the contribution to the welfare of the family and the accrual of assets in the duration of the marriage. Claimant's ability to provide for themselves is central.</p> <p>There is no limit on the amount that can be ordered. The rate is expected to reflect the standard of living before the divorce. The amount is assessed at the time and it is possible to reply on the grounds of change of circumstance.</p> <p>Spouses who are able but unwilling to provide for themselves can be denied maintenance.</p> <p>Fault may be relevant and is ascertained on a case by case basis. Adultery may be an example of fault but adultery may be considered to be the consequence of the other's spouse's behaviour.</p>
Jersey	<p>Rebuttable presumption that spouses will reasonably endeavour to maximise their income/earning potential.</p> <p>Orders for spousal maintenance, capable of review if material change occurs.</p> <p>Child maintenance now considered in similar framework to England and Wales, including capital awards.</p> <p>Clean break principle used when appropriate.</p> <p>Orders include periodic payments, lump sum, and transfer/sale of property, together with express powers to vary existing settlements.</p>
Latvia	<p>Maintenance is only payable to a spouse who is not at fault for the divorce.</p> <p>Maintenance lasts either for a period equivalent to the marriage or until the children are 18.</p> <p>Based on standard of living.</p>
Malta	<p>There is a right to spousal maintenance, but this will be forfeit by the spouse who has given cause for the separation.</p> <p>The amount is based on the needs of the spouse and the income and other assets that the parties have available.</p>
New Zealand	<p>The court has a wide discretion in relation to this, based on assessment of reasonable needs and the ability to meet those needs.</p> <p>It is likely that this will only be awarded for a limited time.</p>

Portugal	<p>The right to spousal maintenance exists not only during the marriage but also after divorce. In a divorce, the right depends upon whether the divorce is fault-based.</p> <p>The amount is usually based on housing, clothing, health care, age, qualifications, ability to work and time spent raising children. The central factors are the needs of the receiving spouse.</p> <p>Maintenance has in principle no set term and can be varied, up or down, by the court at a later date.</p>
Scotland	<p>Spousal maintenance can be awarded in order to share the burden of the children fairly (this is not maintenance for the children).</p> <p>Spousal maintenance is available for up to 3 years to enable the parent to adjust to receiving no support.</p> <p>Spousal maintenance for longer may be awarded where there is severe hardship resulting from divorce.</p> <p>Spousal maintenance should be dealt with by way of a capital payment, rather than a series of income payments, where possible.</p>
Slovakia	<p>A spouse who is not able to earn a living may seek maintenance from his/her partner</p> <p>Level is dependant upon ability to pay and other assets</p> <p>There is no fixed duration for a maintenance order</p> <p>Fault is not relevant.</p>
Spain	<p>There is no provision for a clean break and the court cannot award a lump sum payment. However, a clean break can be achieved by an agreement to pay capitalised maintenance as a lump sum between the parties.</p> <p>Maintenance depends upon an imbalance of means. Factors include the age, health and employment prospects of the parties. Duration of marriage and need are also relevant. The court will also consider the contribution each spouse has made to the other's profession.</p>
Switzerland	<p>There is no right to maintenance if the parties can reasonably be expected to maintain themselves.</p> <p>A resident spouse is expected to work part time by the time the youngest child is 10 and full time by the time that child is 16.</p> <p>The level of maintenance depends on the standard of living during the marriage and other factors such as the length of the marriage, the ages of the parties, the ages of the children, the parties' assets, and the earning potential of the spouses.</p> <p>This is paid by way of monthly instalments, and exceptionally with a lump sum.</p> <p>The court acts under a "clean break principle" and exceptions to this are rare.</p> <p>Not fault based.</p>

Turkey	Maintenance payable to spouse who requires it. The Court determined the amount of the same by considering several facts such as the income of the parties, life standards during the marriage.
California	<p>Temporary (initial) spousal support is granted based on state wide schedules.</p> <p>Permanent support is granted when one party is unable to be self-supporting. In determining the amount and duration of support, all factors, such as age, length of marriage and assets received in the divorce, health and earning capacity are considered.</p> <p>The court will modify the support amount if there is a change of circumstances.</p>
New York	<p>The court can order spousal maintenance, and will take into account the parties' standard of living and the means available to them.</p> <p>This maintenance will always be awarded by way of periodical payments, and is usually for a set period of time, although it can be for life. It is more likely to be permanent if the marriage was a long one and / or the recipient is older or in poor health.</p>
South Africa	The court will always have a discretion with regard to ordering maintenance payments, regardless of which capital regime has been used.