

Information Sheet: Seeking Aliment

Aliment is another name for maintenance, where one family-member pays regular sums of money to maintain another.

The most common types of aliment are aliment for children and aliment for spouses or civil partners.

Aliment for children

Children have a right to be maintained by their parents (or those who have accepted the children as part of their family). When separation takes place between parents, it is common for a child to live with one of the parents. If that eventually arises, the absent parent (an unfortunate term in legislation to describe the parent with whom the child is not living) is obliged to pay maintenance for the child. This may be through the Child Support Agency, (or the Child Maintenance and Enforcement Commission, who will take over the cases during the next few years). Alternatively, the absent parent can simply agree a regular weekly or monthly amount to help maintain the child. Where this type of arrangement, where the parties come to a mutual agreement about the level of aliment, is possible, it is often preferable to involving an outside body.

Aliment for a spouse

Aliment also describes the regular maintenance payments made between a husband and wife (or between civil partners) should they separate. We can provide advice to civil partners, although here we'll assume the parties are married.

Every husband has a duty to aliment his wife, and every wife has a duty to aliment her husband. That duty is always there during a marriage.

The duty is to provide such support as is reasonable in the circumstances and the Court will look at the general financial circumstances of both parties. Although the duty to aliment always exists, the actual amount of that aliment is another matter. When the Court is deciding how much aliment should be paid, it will consider the needs and resources of the parties, both now and in the foreseeable future. It will also consider the earning capacities of both the parties and generally all the circumstances of the case.

The Court might also take into account the costs of maintaining another person as part of the spouse's household. For example, a wife may claim aliment from her husband but if the husband has set up a home with his new partner, the Court might take the husband's financial support of his new partner into account when assessing how much aliment he has to pay.

In looking at the general circumstances of the case, the Court may also consider whether or not the person claiming aliment is supported by someone else. For instance, should a wife claim for aliment against her husband, if the wife has now set up home with a new partner and is receiving a contribution from her new partner towards household bills, etc, this might be taken into account.

It is probably worth pointing out that the Court will not take the conduct of either party into account unless it would be manifestly unfair not to. That is, you may feel aggrieved about the conduct of your spouse but, unless it is “manifestly inequitable to leave it out of account”, the Court will not take it into consideration. To an extent, aliment is separate from any fault or blame about the whole circumstances. The Court focuses on getting the finances sorted out.

A claim for aliment alone can be brought to Court in its own right. Usually, Inksters are able to negotiate payments of aliment on a weekly or monthly basis without the need for any Court action. If you can reach an agreement direct with your spouse or civil partner, then even better.

Sometimes, aliment can't be agreed and it is raised in a Court action that also deals with divorce and a range of financial matters, as part of wider proceedings following a separation.

If a Court action is raised, then before a final decision has been made about the various issues which are in dispute, an order called “interim aliment” can be sought. That's an order for one party to make a regular payment to the other early on in the Court action meaning that the party is still receiving some support while all of the other matters in the action are being dealt with.

It is worth bearing in mind that the right to aliment exists as part of the marriage. When the marriage comes to an end through divorce, the right to aliment ends too.

Generally the Court prefers to sort out the finances in a way that the parties can get a ‘clean break’ from each other, and do not have to have a continuing financial relationship. However, in some cases this is not possible and, monthly payments will be required beyond the divorce. In this case, Inksters can look into the possibility of a “periodical allowance”. This is an order to make monthly payments for a certain period of time after the marriage has come to an end.

Your First Steps

Needless to say, the general financial circumstances of both parties are looked at and, should you wish to make a claim for aliment it would be extremely helpful if you could tell us about your income and outgoings on a monthly basis for us to help assess a claim for aliment.

If you are aware of the income and outgoings of your spouse or civil partner from whom you are separated, this will also be helpful to provide a good foundation for discussing a claim for aliment.

Inksters' website has a downloadable form entitled ‘Schedule of Income and Outgoings’ which sets out what we need to know from you to help deal with your claim.

This form is an appendix to this leaflet at pages 4 and 5, and can be downloaded separately as a word document from www.inksters.com/familylawresources. You may wish to fill in and e-mail this form, or print it out and post to us.

Items of income would be your net pay from any employment, income from any state benefits you receive, child benefit and any other income (for example maintenance paid to you by another party). A copy of your payslip or benefits book would also be very helpful.

Expenditure would include your rent and mortgage payments, Council tax, utility bills, insurances, food, clothes, TV licence, car-related costs and any other items of expenditure made by you on a monthly basis, or every so often and averaged out on a monthly basis.

Once we have that information from you, we would be able to discuss aliment in detail, or we can have an initial conversation with you anyway.

You can probably tell that assessing aliment is not all that straightforward. If you can agree aliment with the other party to keep the finances going, then that would be ideal. If not, then we can help you through the process.

If you need any help at all, then please don't hesitate to contact our Gus Macaulay on 0141 229 0880 or e-mail gus@inksters.com.

APPENDIX: MONTHLY INCOME AND EXPENDITURE

You may wish to use this form to tell us about your circumstances. This will help us to work out how much you may be due in a claim for aliment.

Your name and address:-

Income

Net Pay from employment	£
Income from Benefits	£
Child Benefit	£
Other Income (<i>please give details of source of income</i>)	£
	£
TOTAL	£

Expenditure (for your current address)

Rent or Mortgage Repayments	£
House Maintenance	£
Council Tax	£
Electricity	£
Gas	£
Telephone	£
Insurances - Endowment - Buildings - Contents	£ £ £
Food	£
Clothes	£
TV Licence	£
Petrol	£
Car Tax	£
Car Maintenance	£
Child-care	£
Holidays	£
Other regular outlays	£
TOTAL	£

Notes

1. Do you share any of those expenses? If YES, could you indicate what contribution is made by someone else?	YES/NO £
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2. Is your income or outlays going to change much in the near future? If YES, please give details.	YES/NO
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3. If you are not living in the former matrimonial home, are you making a contribution to the costs of the former matrimonial home? If YES, please indicate what outlays.	YES/NO
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