

## SPOUSAL SUPPORT

### What is Spousal Support?

If a couple decides to separate or get divorced, one partner may be required to financially support the other. Spousal support is usually paid on a monthly basis, but it can also be paid as a lump sum. Spousal support is paid by the partner who earns more (payor) to the partner who earns less (recipient).

Spousal support is **NOT** automatic like child support. You have to either agree to it or go to court to get an order for it.

### Who is Eligible for Spousal Support?

- Married couples
- Couples that have lived together for a minimum of three years
- Couples that were in a relationship of some permanence for any length of time and have a child together
- If you were sponsored by your spouse to come to Canada, your spouse will have agreed in the sponsorship application to support you for a period of time after you arrive in Canada. During that time, they will also need to pay you spousal support if you separate.

**Note:** You do not need to be married to be eligible for spousal support

### Purpose of Spousal Support

- To allow a partner in a marriage or relationship to be able to support themselves financially after separation
- To ease the financial difficulty someone is facing because of separation or divorce
- To share the cost of caring for children on top of the obligation to pay child support

- To recognize each partner's contributions to the relationship ex. If one person stopped working to take care of the children, they can be compensated.

### **Will I get Spousal Support?**

There are several factors used when determining eligibility including:

- How long you and your partner have lived together
- If you have children together and who has been taking care of them
- Both of your incomes and financial situation
- Any responsibilities you had during your relationship that prevented you from building your career, such as taking care of children or helping your spouse build their career.
- Whether separation or divorce left you in need of financial support and whether your ex-partner has enough income and assets to pay support
- Whether you have a legal agreement that says who will get spousal support if you separate
- Spousal Support Advisory Guidelines (SSAG)

### **How much Spousal Support will I get and how long will I get it for?**

The amount and duration of spousal support depends on several factors, including:

- If there is a large difference between your income and your ex-partner's income
- How long you have lived together (you may get a higher amount and for a longer period of time if you have lived together for a very long time)
- Whether you have children together, and who has been caring for them
- Your age and your partner's age
- The roles that each of you had during the relationship
- The mental and physical health of each of you
- The ability of each of you to support yourselves

## How to get Spousal Support:

**1. Separation Agreement** – A couple can agree on how much spousal support payments will be and how frequent. This will not require them to go through the court process. The agreement can still be filed with the court so that it is enforceable.

**2. Court** – The couple can go through the court process and a judge will consider several factors and look at the Spousal Support Advisory Guidelines before making an order.

**Note:** The Spousal Support Advisory Guidelines is used as a guide for determining the amount of spousal support and the duration. It is not law but the courts regularly use the guidelines.

## What if my partner does not pay spousal support?

If you think your partner will not make the spousal support payments in the agreement, you can register your agreement with the Family Responsibility Office (FRO). The FRO is a government agency responsible for enforcing support payments. A court order will automatically be sent to the FRO but agreements outside of court will need to be filed with the court and then registered with the FRO. Once you have registered with the FRO, they will enforce the support payments for you.

**The FRO can do a few things to make sure you get your payment. This can include:**

- Taking money directly from the payor's bank account, retirement savings, employment insurance, benefits, or wages.
- Suspending the payor's driver's license
- Preventing the payor from selling or transferring ownership of their property until they pay spousal support
- Start a court case against them

## Changing Spousal Support Agreements or Orders

If your situation or your partner's situation changes, you may need to make changes to your spousal support agreement or order.

To make changes, you need to prove that there has been a "material change in circumstances," such as:

- Your income or your partner's income has changed
- You don't need spousal support anymore
- You have re-married, and you were only getting spousal support because you were in need of it before
- The arrangement for the children has changed

Your separation agreement or court order may already say how to deal with any changes in circumstances. For example, it may specify the circumstances where spousal support will end. Otherwise, if both of you agree to the changes, you can draft and sign a new agreement. If you had previously filed it with the court and the FRO, you can file a new agreement to replace the previous one. If you agree to change your existing court order, you can file documents with the court and ask the court to give you a consent order based on your new agreement. If you cannot agree to make a new separation agreement or to change your order, you can try to settle your matter outside of court through a process called "alternative dispute resolution (ADR)", or you could go to court and ask the judge to make changes.