

ANEVEN BREAK?

Experts from the Consilium Law Corporation on what we can expect if we get divorced in Singapore





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o man is ever prepared for a divorce, and many still find it hard to grapple with the way the proceedings are carried out. The courts have to deal with issues relating to the divorce, and also ancillary matters, like those relating to children, maintenance and the division of matrimonial assets.

Custody and Care of Children

For the court, the paramount consideration is always the best interests of the child. Here, the courts have shown to be in favour of awarding joint custody to divorced couples, which means both the husband and wife jointly are responsible for making the bigger decisions in the child's life. However, the courts have

been conservative in awarding the care and control of children under seven to fathers. In Singapore, it is a prevalent belief that children should be cared for by their mothers during their tender years, and, as such, it is usually the mothers who are granted care and control. It makes no difference whether the child is a girl or a boy.

Maintenance

Maintenance reflects the fact that a marriage often involves a sacrifice of career or economic prospects by one party to take care of the other party's domestic needs. In the past, women have reduced their participation in the workforce to manage the household such as dealing with the housework and child care. Section 113 of the Women's Charter empow-

ers the court to order a man to pay maintenance to his wife or former wife. The court will look at the facts and determine whether the wife needs maintenance, and the quantum of maintenance required. Factors include:

- The earning power of both parties, previously, currently and in the future.
- 2 The assets owned by either or both of the parties involved.
- **3** Financial needs, obligations and responsibilities of both parties in the future.
- The standard of living enjoyed by the family before the marriage broke down.
- The age of the parties and the duration of the marriage.
- The financial and non-financial contributions made by each party to the family.
- 7 Any potential losses suffered by the parties as a result of the marriage.

Woman's World

In Singapore, there is no legislation allowing men to claim for maintenance from their wives, even if the wife is earning more than him. However, if the wife is drawing a large salary, the court may award a more conservative quantum, if any, in maintenance fees to the wife. Further, if a wife were to be awarded a larger share in the division of the matrimonial assets, the court may justify a smaller maintenance for the wife.

Where there is a child involved in the divorce, the Women's Charter provides that it is the duty of a parent to maintain or contribute to the maintenance of his or her children. This principle applies whether the children are in his or her custody or the custody of any other person such as a guardian and whether the child is legitimate or illegitimate. The child must be maintained until he or she reaches the age of 21 or until the child completes his or her tertiary education.

If a husband/ex-husband refuses or neglects to pay the maintenance for the wife/children, the wife can lodge a complaint to the court. In such a situation, the wife can proceed to recover the arrears in maintenance by way of attachment on the man's income. Essentially, it is an order requiring the husband's/ex-husband's employer to pay the maintenance directly to the wife from the husband's salary. The court may also impose a fine or imprisonment if the husband continues to breach the maintenance order.

For more information regarding divorce law, or to make an appointment, contact the experts at Consilium Law.

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