

FROM ONE-SIDED TO LOPSIDED MAINTENANCE

Maintenance for Incapacitated Husbands, a Decade Later

[2026] SAL Prac 23

The Women's Charter (Cap 353, 2009 Rev Ed) was amended in 2016 to allow incapacitated husbands to apply for spousal maintenance. However, there remains little discussion as to who would constitute an "incapacitated husband" for the purposes of maintenance even a decade later. This article explores the legislative intent behind allowing incapacitated husbands to apply for maintenance, and examines how the term has been understood in the few select cases that have come before the courts. This author concludes that the courts could be more alive to the distinct statutory elements that must each be satisfied before an applicant may properly be regarded as an "incapacitated husband". The author also suggests that the purpose of an award of maintenance to an "incapacitated former husband" is primarily needs-based, which differs conceptually from the principles that underpin spousal maintenance for a former wife.

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I. Introduction

1 In 2016, the Women's Charter was amended to allow incapacitated husbands to apply for spousal maintenance. Close to a decade since these amendments were made, there remains a dearth of case law discussing these provisions. Perhaps against the backdrop of the low number of applications for maintenance

1 This article is written in the author's personal capacity, and the opinions expressed in this article are entirely the author's own views.

for incapacitated husbands, such a development should not be a surprise. Between 2017 and 2021, fewer than 20 applications were received by the Family Justice Courts.² The reasons for this are likely multi-faceted, ranging from societal norms to the stringent requirements to qualify for incapacitated husband maintenance. This article seeks to unpack a possible reason for the low application rate, the high legal threshold required to qualify as an “incapacitated husband”, and explores the legislative purpose underlying an award of maintenance for incapacitated husbands. In particular, the article argues that the statutory definition requires attention to three distinct elements: whether the husband is incapacitated from earning a livelihood, whether he is unable to maintain himself, and whether he continues to be unable to maintain himself. It also argues that maintenance for incapacitated former husbands is fundamentally needs-based, and differs conceptually from maintenance for former wives, which is directed towards financial preservation following the breakdown of the marriage.

II. Legislative amendments to the Women’s Charter in 2016

A. *Amended provisions on incapacitated husband maintenance*

2 The inclusion of the right for an incapacitated husband to seek maintenance from his wife came into effect on 1 July 2016 by way of the Women’s Charter (Amendment) Act 2016.³ Prior to these amendments, only wives could seek spousal maintenance under the Women’s Charter⁴ (“WC 2009”). This includes spousal maintenance in a subsisting marriage under Pt 7 of the WC 2009, and interim and final spousal maintenance under Pt 10 of the WC 2009.

2 Theresa Tan, “Few Incapacitated Husbands Have Filed for Maintenance Since Change in Law”, *The Straits Times* (31 January 2022) <<https://www.straitstimes.com/singapore/community/few-incapacitated-husbands-have-filed-for-maintenance-since-change-in-law>> (accessed 24 July 2026).

3 Act 7 of 2016.

4 Cap 353, 2009 Rev Ed.

3 The 2016 amendments are reflected in the present Women's Charter 1961⁵ ("WC 2020") under ss 69(1A) and 113(1).

Court may order maintenance of wife, incapacitated husband and children

69.—(1A) The court may, on the application of an *incapacitated husband*, and on due proof that his wife has neglected or refused to provide reasonable maintenance for him, order the wife to pay monthly sums or a lump sum for the maintenance of that husband.

Power of court to order maintenance

113.—(1) The court may order a man to pay maintenance to his wife or former wife, or order a woman to pay maintenance to her *incapacitated husband or incapacitated former husband* —

- (a) during the course of any matrimonial proceedings; or
- (b) when granting or subsequent to the grant of a judgment of divorce, judicial separation or nullity of marriage.

[emphasis added]

4 Section 2 of the Women's Charter was also amended to include a definition of "incapacitated husband".⁶ For the purposes of this article, the amendments to ss 2, 69(1A) and 113 of the WC 2009 will be referred to collectively as the "Amendments". Under s 2 of the WC 2020:

...

'incapacitated husband' means a husband who —

- (a) during the marriage, is or becomes —
 - (i) incapacitated, by any physical or mental disability or any illness, from earning a livelihood ["Element 1"]; and
 - (ii) unable to maintain himself ["Element 2"]; and

5 2020 Rev Ed.

6 The term "incapacitated former husband" is also defined in s 2 of the Women's Charter 1961 (2020 Rev Ed), and is substantially similar to the definition of "incapacitated husband".

(b) continues to be unable to maintain himself [“Element 3”].

B. *Legislative intent behind amendments*

5 During the Second Reading of the Women’s Charter (Amendment) Bill, then Minister for Social and Family Development, Tan Chuan-Jin (“Minister”), explained that the following criteria must be met for an incapacitated husband or ex-husband to apply for spousal maintenance.⁷ The husband must be:

- (a) incapacitated before or during the course of the marriage;
- (b) unable to earn a livelihood;
- (c) unable to support himself; and
- (d) unable to support himself at the time when the maintenance application is heard.

6 These criteria set out by the Minister neatly correspond to the requirements set out in s 2 of the WC 2020 for an applicant husband to qualify as an “incapacitated husband”. While the Minister did not elaborate on how each of these requirements should be applied in practice, he did provide two examples of the type of cases that the amendments were intended to address. The first concerned a man in a professional occupation who was struck by a debilitating illness. The illness left him mentally incapacitated and unable to work. His wife subsequently divorced him, leaving him with no means of supporting himself. The second concerned a man who became severely disabled following a serious workplace accident. After his wife divorced him, he found himself without any recourse for financial support despite having spent years providing for his wife and family. Significantly, both examples involved husbands who, because of a serious illness or disability, were unable to support themselves financially.

7 Singapore Parl Debates; Vol 94, Sitting No 7; [29 February 2016] (Tan Chuan-Jin, Minister for Social and Family Development).

7 For clarity, the Minister also gave examples of individuals who *would not* be covered under the Amendments.⁸ These include:

- (a) an incapacitated husband or ex-husband who is able to earn a livelihood sufficient to maintain himself;
- (b) an incapacitated husband or ex-husband who has other means, such as income from investments or insurance payouts, to support himself; and
- (c) an ex-husband who became incapacitated after the divorce had been finalised.

8 It is clear that it is not sufficient for a husband seeking maintenance to prove that he is suffering from a physical or mental disability or any illness. Two further requirements must be met. First, the disability or illness must prevent the husband from earning a livelihood. Second, consideration of the husband's *overall financial position* must also be undertaken to ascertain whether he is "unable to maintain himself".⁹ As will be further elaborated on later, this latter point has not always been fully appreciated.

9 It is also worth noting that while the examples provided by the Minister do provide some insight into the types of situations that Parliament intended to address by introducing the Amendments, little guidance was given on how the statutory requirements in s 2 of the WC 2020 should be interpreted and applied. This would explain why there remains considerable uncertainty as to the threshold that an applicant husband must satisfy in order to qualify as an "incapacitated husband".

10 Aside from the substantive content of the Amendments, it is also important to highlight the *context* in which they were made. Prior to introducing the Amendments, the Minister noted that there had been extensive debate pertaining to whether men should be able to seek spousal maintenance from their wives or ex-wives. It was only after extensive discussions

8 Singapore Parl Debates; Vol 94, Sitting No 7; [29 February 2016] (Tan Chuan-Jin, Minister for Social and Family Development).

9 Women's Charter 1961 (2020 Rev Ed) s 2.

with stakeholders and internal deliberations that the Ministry of Social and Family Development concluded that “our society is not quite fully ready for gender neutrality on the spousal maintenance front”.¹⁰ Nevertheless, the Minister expressed that the time was right to “take a step to allow incapacitated husband and ex-husbands to apply for spousal maintenance where there is a clear need”.¹¹ This amendment was described as a “calibrated measure” which “[struck] a balance at [that] stage of [Singapore’s] development”.¹²

11 From the context provided by the Minister, it is clear that the Amendments were only targeted at a small group of individuals who met a clearly circumscribed set of criteria. These criteria – and their interpretation – must be understood against the legislative intent to preserve a clear distinction between spousal maintenance for husbands and wives. The context underlying the Amendments, together with the examples given by the Minister,¹³ makes it clear that Parliament intended maintenance for incapacitated former husbands to be fundamentally *needs-based*.

12 It should also be noted that the topic of moving towards gender-neutrality in spousal maintenance was brought up again during the Parliamentary debates for the Women’s Charter (Amendment) Act 2022.¹⁴ A few Members of Parliament advocated for an extension of the law to allow husbands to apply for maintenance from their wives,¹⁵ however, these suggestions were not taken up.¹⁶

10 Singapore Parl Debates; Vol 94, Sitting No 7; Page 37; [29 February 2016] (Tan Chuan-Jin, Minister for Social and Family Development).

11 Singapore Parl Debates; Vol 94, Sitting No 7; Page 38; [29 February 2016] (Tan Chuan-Jin, Minister for Social and Family Development).

12 Singapore Parl Debates; Vol 94, Sitting No 7; Page 69; [29 February 2016] (Tan Chuan-Jin, Minister for Social and Family Development).

13 See para 6 above.

14 Act 3 of 2022.

15 See, *eg*, Singapore Parl Debates; Vol 95, Sitting No 44; [10 January 2022] (Carrie Tan, Member of Parliament and Ang Wei Neng, Member of Parliament).

16 Singapore Parl Debates; Vol 95, Sitting No 44; [10 January 2022] (Sun Xueling, Minister of State for Social and Family Development).

III. Cases with applications for maintenance by incapacitated husband or incapacitated ex-husband

13 Next, this article considers the cases which dealt with applications by husbands for maintenance. In this section, we consider the following three cases: *USA v USB*¹⁷ (“*USA v USB*”); *VJF v VJG*¹⁸ (“*VJF v VJG*”); and *WJM v WJN*¹⁹ (“*WJM v WJN*”). At the time of writing, these appear to be the only published decisions which discussed the issue of maintenance for incapacitated husbands.

A. *USA v USB*

14 In *USA v USB*, the Family Division of the High Court was concerned with the ancillary matters arising from a marriage. Prior to their marriage, the parties cohabited for a period of around 12 years before the marriage. The marriage lasted about five and a half years. At the time of the proceedings, the husband was 66 years old and employed as a lawyer. The wife was 52 years old and was a real estate salesperson.²⁰

15 The husband sought maintenance on the basis that he was an “incapacitated husband” within the meaning of s 113(1) of the WC 2009 by virtue of Ménière’s disease, a condition which causes hearing loss, vertigo and tinnitus. The husband argued that, as a result of this disease, he had to give up work as a lawyer and made a living earning around \$600 per month as a “roving Commissioner for Oaths”,²¹ as well as by working on a few simple conveyancing and uncontested probate matters.²²

16 On the other hand, the wife argued that the husband was not as severely affected by the disease as he claimed. She asserted that the medical reports relied on by the husband did not express definitively that the husband suffered from the disease and did not say that he was unable to work. The wife also adduced two

17 [2020] 4 SLR 288.

18 [2020] SGFC 54.

19 [2023] SGHCF 18.

20 *USA v USB* [2020] 4 SLR 288 at [1]–[2].

21 *USA v USB* [2020] 4 SLR 288 at [121].

22 *USA v USB* [2020] 4 SLR 288 at [3] and [121].

reports by private investigators which she submitted showed that the husband was able to go about a typical workday normally. She further contended that the husband deliberately understated his income to support his claim for maintenance, highlighting that the husband's declared annual income for 2012 was as high as \$8,991.75 (or \$750 per month) despite suffering from Ménière's disease since 2009.²³

17 Judicial Commissioner Tan Puay Boon rejected the husband's claim for maintenance and found that there was insufficient basis to support the conclusion that the husband had become incapacitated from earning a livelihood. Tan JC agreed with the wife that the medical reports relied upon by the husband did not suggest that he was "completely unable to work".²⁴ Rather, they only suggested that he may be unable to work upon the onset of an attack of vertigo.²⁵

18 Additionally, Tan JC also gave limited weight to the medical reports largely based on the husband's own account that he had six episodes of vertigo from April 2016 to June 2016. There was also nothing to suggest that the husband had recently sought medical treatment, which would have been expected if the attacks were as frequent and disruptive as the husband had claimed. Lastly, Tan JC took into account the private investigators' reports which suggested that the husband was able to go about his daily activities.²⁶

19 While Tan JC acknowledged that the husband might be affected by Ménière's disease to some extent, this did not mean that he was incapacitated from earning a livelihood within the meaning of s 113 of the WC 2009. Tan JC held that the ordinary meaning of the term "livelihood" was defined as "a means of securing the necessities of life",²⁷ and on the facts, Tan JC was not persuaded that the husband had become unable to earn a means of securing the necessities of life. While the husband's

23 *USA v USB* [2020] 4 SLR 288 at [122].

24 *USA v USB* [2020] 4 SLR 288 at [124].

25 *USA v USB* [2020] 4 SLR 288 at [124].

26 *USA v USB* [2020] 4 SLR 288 at [124].

27 *USA v USB* [2020] 4 SLR 288 at [125].

monthly income for 2016 was a rather meagre sum of \$598, this was not an accurate indicator of his earning capacity as he earned in excess of \$2,000 per month the previous year. Further, Tan JC explained that while litigation and court work might be affected by the husband's condition, he was not persuaded that Ménéière's disease would render the husband unable to do other kinds of court work.²⁸

B. *VJF v VJG*

20 We next consider *VJF v VJG*, a Family Court case that was decided after *USA v USB*. In this case, the husband sought an order that the wife pay monthly spousal maintenance of \$750 to him.²⁹ At the time of the hearing, the parties had been married for around ten years. They lived apart but were still married as the wife intended to file for divorce but had yet to do so.³⁰

21 The husband purportedly suffered a work injury sometime in 2017 and had been on medical certificate leave since then. Sometime near the end of 2018, the husband suffered another fall at a supermarket, allegedly due to complications with his medications.³¹ The husband adduced various medical documents into evidence, which included a medical certification and medical report that the husband was unfit for work permanently.³²

22 The district judge ("DJ") allowed the husband's claim for maintenance. The DJ found that unlike *USA v USB*, the husband in *VJF v VJG* had at least two medical reports which unequivocally stated that he was permanently unfit for work due to his physical and/or mental disability.³³ Additionally, unlike *USA v USB*, there was no counter-evidence presented by the wife to lead the court to disbelieve the husband's position that he was incapacitated.³⁴ Another factor that the court considered was that the husband

28 *USA v USB* [2020] 4 SLR 288 at [125].

29 *VJF v VJG* [2020] SGFC 54 at [2].

30 *VJF v VJG* [2020] SGFC 54 at [3].

31 *VJF v VJG* [2020] SGFC 54 at [7].

32 *VJF v VJG* [2020] SGFC 54 at [8].

33 *VJF v VJG* [2020] SGFC 54 at [27].

34 *VJF v VJG* [2020] SGFC 54 at [28].

did not have any formal educational qualifications. The work that he would have to perform, given his previous line of work, was likely to be labour-intensive. This was as opposed to the husband in *USA v USB*, as the husband in that case had formal educational qualifications.³⁵

23 The DJ also noted that the husband had not, at the time of the hearing, qualified for insurance payouts and this cast some doubt on whether the husband's incapacity to work was permanent. However, the court held that these only represented the insurance companies' positions on the husband's status, and were not medical opinions or reports.³⁶

24 The DJ held that on the totality of evidence admitted at trial, he was persuaded that the husband had discharged his burden of proving incapacity on the balance of probabilities. The fact that the husband had been on medical leave since his workplace in 2017 and had no income since then, was another indicator that the husband was incapacitated from earning a livelihood.³⁷ In the circumstances, the DJ found that the husband was an incapacitated husband and permanently unable to work and generate income to maintain himself.³⁸

C. *WJM v WJN*

25 Turning lastly to *WJM v WJN*, the husband in this case was wheelchair bound and certified as disabled.³⁹ In the proceedings before the Family Court, the DJ awarded maintenance to the husband of \$150 a month for a year starting from 30 November 2022. The wife appealed against the DJ's decision on this point in her notice of appeal but made no arguments in support in her appellant's case.⁴⁰

35 *VJF v VJG* [2020] SGFC 54 at [29].

36 *VJF v VJG* [2020] SGFC 54 at [30]–[31].

37 *VJF v VJG* [2020] SGFC 54 at [33].

38 *VJF v VJG* [2020] SGFC 54 at [34].

39 *WJM v WJN* [2023] SGHCF 18 at [13].

40 *WJM v WJN* [2023] SGHCF 18 at [11].

26 After hearing the appeal, the General Division of the High Court (Family Division) reserved judgment. The husband subsequently wrote in to make further submissions by way of e-mail, seeking, *inter alia*, that the maintenance obligation be extended beyond 12 months to the rest of his life.⁴¹ The judge found that the husband's e-mail was not in accordance with the proper procedure for further arguments and that the husband did not file a cross-appeal against the DJ's decision. His arguments could be rejected on this procedural ground alone.⁴²

27 In any case, the judge also rejected the husband's substantive legal arguments. The judge noted that the husband was essentially seeking a variation of the DJ's order. However, as the DJ found, the wife was not a high-income earner, and the husband was receiving aid from the Government. Further, the husband would be entitled to a lumpsum payout when the matrimonial home was sold on the open market. As such, the maintenance order was thus fair and reasonable in the circumstances, and there was no material change in circumstances from the time of the order to when the appeal was heard that warranted a variation of the orders.⁴³

IV. Analysis of cases

A. Key observations on court's approach to application for maintenance by incapacitated husband

28 A few key points can be distilled from the cases summarised above. First, it is clear that the threshold for establishing "physical or mental disability or any illness" under s 2 of the WC 2020 is a high one. In *USA v USB*, while the court accepted that the husband was affected by Ménière's disease,⁴⁴ the court nevertheless rejected the husband's application as, *inter alia*, the medical reports did not suggest that the husband was

41 *WJM v WJN* [2023] SGHCF 18 at [11].

42 *WJM v WJN* [2023] SGHCF 18 at [12].

43 *WJM v WJN* [2023] SGHCF 18 at [13].

44 *USA v USB* [2020] 4 SLR 288 at [125].

“completely unable to work”⁴⁵ – the reports only suggested that he was unable to work upon the onset of an attack of vertigo.⁴⁶

29 This can be contrasted with the conditions of the husbands in *VJF v VJG* and *WJM v WJN*, where the court accepted the application for maintenance.⁴⁷ In *VJF v VJG*, the husband purportedly suffered a work injury in 2017 and suffered another fall near the end of 2018.⁴⁸ The medical documents adduced showed that the husband “had a primary diagnosis of ‘*Cervical Radiculopathy*’ and other issues such as chronic back pain, chronic neck and right ‘*UI*’ pain, left knee pain, joint pains and adjustment disorder”,⁴⁹ which led doctors to conclude that he was permanently unfit for work.⁵⁰ In *WJM v WJN*, the husband was wheelchair bound and certified as disabled.⁵¹ These two cases provide a helpful benchmark as to the severity of any physical or mental disability or illness that is required to be shown for someone to qualify as an “incapacitated husband” under s 2 of the WC 2020.

30 When compared against the facts of *USA v USB*, it can be observed that the conditions suffered by the husbands in *VJF v VJG* and *WJM v WJN* were markedly more severe. The contrast between these cases suggests that the threshold that must be met for an applicant husband to qualify as an “incapacitated husband” under s 2 of the WC 2020 is not satisfied merely because a husband suffers from a medical condition that affects his ability to work. Rather, the condition must be of such severity that it substantially impairs, if not altogether eliminates, his ability to work and earn a living.

45 *USA v USB* [2020] 4 SLR 288 at [124].

46 *USA v USB* [2020] 4 SLR 288 at [124].

47 In the case of *WJM v WJN* [2023] SGHCF 18, the General Division of the High Court (Family Division) affirmed the district judge’s decision that the wife was to pay the husband maintenance of \$150 for a year: *WJM v WJN* [2023] SGHCF 18 at [11].

48 *VJF v VJG* [2020] SGFC 54 at [7].

49 *VJF v VJG* [2020] SGFC 54 at [8(e)].

50 *VJF v VJG* [2020] SGFC 54 at [8(c)] and [8(e)].

51 *WJM v WJN* [2023] SGHCF 18 at [13].

31 Second, and relatedly, the cases of *USA v USB* and *VJF v VJG* serve as helpful reminders for practitioners as to the importance of the quality of the supporting medical evidence that should be adduced when making an application for maintenance as an incapacitated husband. In *USA v USB*, the court highlighted that the medical reports were largely based on the husband's own account that he had six episodes of vertigo from April 2016 to June 2016 and that this carried "limited weight as an objective indicator of the frequency of his attacks".⁵² Additionally, the medical reports adduced were not recent.⁵³ This undermined the husband's claims as to the frequency and disruptiveness of his vertigo attacks.⁵⁴

32 This can be contrasted with the medical evidence adduced in *VJF v VJG*, where the husband adduced six medical reports on his condition, with the latest report dated February 2020 (the trial concluded on 18 March 2020).⁵⁵ The difference in the quality of the medical evidence adduced in *USA v USB* and *VJF v VJG*, as well as the courts' respective treatment of the evidence, highlights the importance of adducing conclusive, objective and recent medical evidence when making an application for maintenance as an incapacitated husband.

33 Third, a relevant consideration is the educational qualifications of the applicant husband, in so far as it may affect the type of work he can perform. In *USA v USB*, the husband was a lawyer and, in dismissing his application for maintenance, the court explained that it was "not persuaded that Ménière's disease would render him unable to perform other kinds of legal work".⁵⁶ This can be contrasted with the husband in *VJF v VJG*, who did not have any formal educational qualifications and had previously performed labour-intensive work.⁵⁷ As such, it is clear that in considering whether an applicant husband is "unable to

52 *USA v USB* [2020] 4 SLR 288 at [124].

53 See para 18 above.

54 *USA v USB* [2020] 4 SLR 288 at [124].

55 *VJF v VJG* [2020] SGFC 54 at [8].

56 *USA v USB* [2020] 4 SLR 288 at [125]; see para 19 above.

57 *VJF v VJG* [2020] SGFC 54 at [29]; see para 22 above.

maintain himself”,⁵⁸ a relevant consideration is the type of work available for someone of the applicant’s educational background and how the physical or medical disability or illness suffered by the applicant husband may affect his ability to perform these types of work in the future.

B. Further observations on statutory requirements for incapacitated husband

34 Two further comments about the aforementioned cases can be made. First, the court in *VJF v VJG* appeared to place emphasis on the fact that the husband’s incapacity was permanent.⁵⁹ However, it is submitted that, strictly speaking, the definition of an “incapacitated husband” set out in s 2 of the WC 2020 does not require the incapacity to be permanent. It might be the case that a husband with a permanent incapacity would be able to more easily show that he is also “unable to maintain himself”⁶⁰ and “continues to be unable to maintain himself”,⁶¹ but it is also possible for a *temporary* incapacity to satisfy these requirements.

35 Second, the court in *USA v USB* and *VJF v VJG* appeared to focus the assessment on Element 1 (*viz*, whether the applicant husband was incapacitated from earning a livelihood), without placing equal emphasis on Elements 2 and 3 (*viz*, whether the applicant husband is “unable to maintain himself” and “continues to be unable to maintain himself”).

36 In *VJF v VJG*, *eg*, the DJ concluded that he “found insufficient reason to disbelieve the Husband that he was incapacitated and permanently unable to work and generate income to maintain himself”.⁶² This conclusion is not wrong. However, with respect, it might be potentially confusing, as to meet the definition of an “incapacitated husband” under s 2 of the WC 2020, the applicant husband has to show an inability to generate income and earn a livelihood (*ie*, Element 1) *and* his inability to maintain himself

58 Women’s Charter 1961 (2020 Rev Ed) s 2.

59 See, *eg*, *VJF v VJG* [2020] SGFC 54 at [27] and [31].

60 Women’s Charter 1961 (2020 Rev Ed) s 2.

61 Women’s Charter 1961 (2020 Rev Ed) s 2.

62 *VJF v VJG* [2020] SGFC 54 at [34].

(ie, Element 2). While the former will often be relevant to the latter – an applicant’s inability to earn a livelihood will likely lead to an inability to maintain himself – these two elements are still conceptually and legally distinct.

37 As noted above at para 8, Element 2 requires a consideration of the applicant husband’s *overall financial position*, which may include whether he receives income from investments, insurance payouts, *etc.* This is clear from the case in *WJM v WJN*, where the court rejected the husband’s application for maintenance for the rest of his life as, *inter alia*, he was receiving aid from the Government and would be entitled to a lumpsum payout when the matrimonial home was sold on the open market.⁶³ It is submitted that future courts considering applications for maintenance as an incapacitated husband should be alive to the distinction between Element 1 and Elements 2 and 3, and consider whether the husband is able to maintain himself, independent of whether the husband is able to generate income and earn a livelihood.

C. Observations on rationale for maintenance for incapacitated former husbands

38 Another noteworthy aspect of maintenance for incapacitated husbands concerns the rationale underlying an award of maintenance under s 113(1)(b) of the WC 2020 for incapacitated *former* husbands. It is submitted that the principles applicable to an award of maintenance to an incapacitated former husband differ from those applicable to an award of maintenance to a former wife.

39 It is trite that the purpose of maintenance for a wife during a subsisting marriage under s 69(1) of the WC 2020, as well as interim maintenance during divorce proceedings under s 113(1)(a), is to provide for the wife’s immediate financial needs. This differs from the purpose of maintenance awarded to a former wife pursuant to s 113(1)(b), which serves a broader objective of addressing the economic consequences of the marriage

63 *WJM v WJN* [2023] SGHCF 18 at [13].

and facilitating the wife's financial preservation following its breakdown. This distinction was recently reiterated by the Appellate Division of the High Court ("Appellate Division") in the case of *XHG v XHH*⁶⁴ ("*XHG v XHH*").⁶⁵

40 As the Appellate Division also explained, the power under s 113(1)(b) is supplementary to the power to divide matrimonial assets. Accordingly, the court exercises its discretion after considering the financial resources each spouse will have pursuant to the division order. Depending on the circumstances, a substantial division of matrimonial assets may render a maintenance order unnecessary. This reflects the broader objective of facilitating the former spouse's transition to post-divorce life while encouraging eventual economic self-sufficiency.⁶⁶

41 However, it is submitted that these well-established principles *do not* apply with equal force to incapacitated former husbands. Unlike a former wife, a former husband may only obtain maintenance under s 113 of the WC 2020 if he first satisfies the statutory definition of an "incapacitated former husband" in s 2 of the WC 2020. That requires him to establish not only that he is incapacitated from earning a livelihood, but also that he is unable to maintain himself and continues to be unable to maintain himself. The statutory design of s 113 of WC 2020 therefore makes *need* a threshold requirement for any claim by an incapacitated former husband. This interpretation is supported by the legislative intent for maintenance for incapacitated former husbands to be fundamentally needs-based.⁶⁷ This can be contrasted with the objectives of financial preservation and evening out the financial inequalities between the spouses that underpin maintenance for former wives.⁶⁸

64 [2025] 2 SLR 501.

65 *XHG v XHH* [2025] 2 SLR 501 at [66].

66 *XHG v XHH* [2025] 2 SLR 501 at [73]–[74].

67 See para 11 above.

68 *XHG v XHH* [2025] 2 SLR 501 at [66]; *Foo Ah Yan v Chiam Heng Chow* [2012] 2 SLR 506 at [15].

42 One final related observation may be made. As mentioned above, in the context of maintenance for wives, the courts have long recognised a distinction between maintenance awarded during a subsisting marriage or on an interim basis, and maintenance awarded in the context of ancillary matters. It is doubtful that an equivalent distinction exists in relation to maintenance for incapacitated husbands,⁶⁹ and incapacitated former husbands.⁷⁰ Whether an application is brought under s 69(1A), 113(1)(a) or 113(1)(b) of the WC 2020, the applicant must first establish that he falls within the statutory definition of an incapacitated husband or incapacitated former husband set out in s 2 of the WC 2020, under which need is the central inquiry.

43 Nor does the fact that the court's power to award maintenance to an incapacitated former husband under s 113(1)(b) of the WC 2020 is supplementary to the power to divide matrimonial assets affect this analysis. In making a maintenance order under s 113(1)(b), the court must take into account the financial resources available to the parties following the division of matrimonial assets. Thus, when a former wife receives substantial assets pursuant to a division order, the court may find that there is no need to order maintenance for the former wife. In the context of an incapacitated former husband, however, the issue is not merely that a maintenance order becomes unnecessary as a matter of discretion. Rather, the husband may no longer satisfy the statutory definition of an "incapacitated former husband" under s 2 of the WC 2020. This reinforces the point that, unlike maintenance for former wives, the inquiry in relation to maintenance for incapacitated husbands and incapacitated former husbands remains fundamentally directed towards the husband's financial need, whether the application is brought under s 69(1A), s 113(1)(a) or s 113(1)(b) of the WC 2020.

69 Under s 69(1A) or 113(1)(a) of the Women's Charter 1961 (2020 Rev Ed).

70 Under s 113(1)(b) of the Women's Charter 1961 (2020 Rev Ed).

V. Conclusion

44 Over the years, there have been multiple calls for the equalisation of spousal liability for maintenance.⁷¹ The move to allow incapacitated husbands to apply for maintenance in 2016 represented only a small shift in the law of spousal maintenance – as one learned author describes it, it changed the law from being “one-sided” to “lopsided”.⁷² This description is apt, and it is clear that the Legislature intended to preserve a clear distinction between spousal maintenance for husbands and wives.

45 For these reasons also, it is perhaps unsurprising that the WC 2020 sets out strict criteria for one to qualify as an incapacitated husband. This is also reflected in the way the courts have approached such applications, and only a few cases recorded maintenance being granted to an incapacitated husband.

46 As noted above at para 12, even up to 2022, there has been no indication that the Legislature intends to move toward a more gender-neutral spousal maintenance regime. It therefore remains to be seen whether the Legislature will eventually move to change the law in this area, though for now, it is clear that only a very small number of people will qualify for maintenance as an incapacitated husband.

71 See, *eg*, Singapore Parl Debates; Vol 94, Sitting No 7; [29 February 2016] (Daniel Goh Pei Siong, Non-Constituency Member); see also Leong Wai Kum, *Marriage, Spouses and Assets* (Academy Publishing, 2025) at para 6.26.

72 Leong Wai Kum, *Marriage, Spouses and Assets* (Academy Publishing, 2025) at para 13.27. The title of this article is gratefully adapted from this quote by Prof Leong Wai Kum.