



Matrimonial Causes Act 1965

1965 CHAPTER 72

PART II

ANCILLARY RELIEF

Maintenance from estate of deceased former spouse

- [^{F1}28A**
- (1) Where on an application for maintenance under section 26 of this Act it appears to the court—
 - (a) that the applicant is in immediate need of financial assistance, but it is not yet possible to determine what order (if any) should be made on the application for the provision of maintenance for the applicant; and
 - (b) that property forming part of the net estate of the deceased is or can be made available to meet the need of the applicant;the court may order that, subject to such conditions or restrictions, if any, as the court may impose and to any further order of the court, there shall be paid to or for the benefit of the applicant out of the deceased's net estate such sum or sums and (if more than one) at such intervals as the court thinks reasonable.
 - (2) In determining what order, if any, should be made under this section the court shall, so far as the urgency of the case admits, take account of the same considerations as would be relevant in determining what order should be made on the application for the provision of maintenance for the applicant; and any subsequent order for the provision of maintenance may provide that sums paid to or for the benefit of the applicant by virtue of this section shall be treated to such extent, if any, and in such manner as may be provided by that order as having been paid on account of the maintenance provided for by that order.
 - (3) Subject to subsection (2) above, section 3 of the ^{M1}Inheritance (Family Provision) Act 1938 as applied by section 28 of this Act, shall apply in relation to an order under this section as it applies in relation to an order providing for maintenance.

Changes to legislation: There are currently no known outstanding effects for the Matrimonial Causes Act 1965, Section 28A. (See end of Document for details)

- (4) Where the deceased's personal representative pays any sum directed by an order under this section to be paid out of the deceased's net estate, he shall not be under any liability by reason of that estate not being sufficient to make the payment, unless at the time of making the payment he has reasonable cause to believe that the estate is not sufficient]

Textual Amendments

F1 S. 28A added by [Family Provision Act 1966 \(c. 35\)](#), s. 6(2), **Sch. 1**

Marginal Citations

M1 1938 c. 45.

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