



Matrimonial Proceedings and Property Act 1970

1970 CHAPTER 45

PART I

PROVISIONS WITH RESPECT TO ANCILLARY AND OTHER RELIEF IN MATRIMONIAL CAUSES AND TO CERTAIN OTHER MATRIMONIAL PROCEEDINGS

*Powers of court in cases of divorce, etc., to make orders with respect to
financial provision for parties to the marriage and children of the family*

2 Financial provision for party to a marriage in cases of divorce, etc.

- (1) On granting a decree of divorce, a decree of nullity of marriage or a decree of judicial separation or at any time thereafter (whether, in the case of a decree of divorce or of nullity of marriage, before or after the decree is made absolute), the court may, subject to the provisions of section 24(1) of this Act, make any one or more of the following orders, that is to say—
 - (a) an order that either party to the marriage shall make to the other such periodical payments and for such term as may be specified in the order;
 - (b) an order that either party to the marriage shall secure to the other to the satisfaction of the court, such periodical payments and for such term as may be so specified;
 - (c) an order that either party to the marriage shall pay to the other such lump sum or sums as may be so specified.
- (2) Without prejudice to the generality of subsection (1)(c) above, an order under this section that a party to a marriage shall pay a lump sum to the other party—
 - (a) may be made for the purpose of enabling that other party to meet any liabilities or expenses reasonably incurred by him or her in maintaining himself or herself or any child of the family before making an application for an order under this section;

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- (b) may provide for the payment of that sum by instalments of such amount as may be specified in the order and may require the payment of the instalments to be secured to the satisfaction of the court.

3 Financial provision for child of the family in cases of divorce, etc.

- (1) Subject to the provisions of section 8 of this Act, in proceedings for divorce, nullity of marriage or judicial separation, the court may make any one or more of the orders mentioned in subsection (2) below—
 - (a) before or on granting the decree of divorce, of nullity of marriage or of judicial separation, as the case may be, or at any time thereafter ;
 - (b) where any such proceedings are dismissed after the beginning of the trial, either forthwith or within a reasonable period after the dismissal.
- (2) The orders referred to in subsection (1) above are—
 - (a) an order that a party to the marriage shall make to such person as may be specified in the order for the benefit of a child of the family, or to such a child, such periodical payments and for such term as may be so specified;
 - (b) an order that a party to the marriage shall secure to such person as may be so specified for the benefit of such a child, or to such a child, to the satisfaction of the court, such periodical payments and for such term as may be so specified ;
 - (c) an order that a party to the marriage shall pay to such person as may be so specified for the benefit of such a child, or to such a child, such lump sum as may be so specified.
- (3) Without prejudice to the generality of subsection (2)(c) above, an order under this section for the payment of a lump sum to any person for the benefit of a child of the family, or to such a child, may be made for the purpose of enabling any liabilities or expenses reasonably incurred by or for the benefit of that child before the making of an application for an order under this section to be met.
- (4) An order under this section for the payment of a lump sum may provide for the payment of that sum by instalments of such amount as may be specified in the order and may require the payment of the instalments to be secured to the satisfaction of the court.
- (5) While the court has power to make an order in any proceedings by virtue of subsection (1)(a) above, it may exercise that power from time to time; and where the court makes an order by virtue of subsection (1)(b) above in relation to a child it may from time to time make a further order under this section in relation to him.

4 Orders for transfer and settlement of property and for variation of settlements in cases of divorce, etc.

On granting a decree of divorce, a decree of nullity of marriage or a decree of judicial separation, or at any time thereafter (whether, in the case of a decree of divorce or of nullity of marriage, before or after the decree is made absolute), the court may, subject to the provisions of sections 8 and 24(1) of this Act, make any one or more of the following orders, that is to say—

- (a) an order that a party to the marriage shall transfer to the other party, to any child of the family or to such person as may be specified in the order for the benefit of such a child such property as may be so specified, being property to which the first-mentioned party is entitled, either in possession or reversion ;

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- (b) an order that a settlement of such property as may be so specified, being property to which a party to the marriage is so entitled, be made to the satisfaction of the court for the benefit of the other party to the marriage and of the children of the family or either or any of them;
- (c) an order varying for the benefit of the parties to the marriage and of the children of the family or either or any of them any ante-nuptial or post-nuptial settlement (including such a settlement made by will or codicil) made on the parties to the marriage;
- (d) an order extinguishing or reducing the interest of either of the parties to the marriage under any such settlement ;

and the court may make an order under paragraph (c) above notwithstanding that there are no children of the family.

5 Matters to which court is to have regard in deciding what orders to make under ss. 2, 3 and 4

(1) It shall be the duty of the court in deciding whether to exercise its powers under section 2 or 4 of this Act in relation to a party to the marriage and, if so, in what manner, to have regard to all the circumstances of the case including the following matters, that is to say—

- (a) the income, earning capacity, property and other financial resources which each of the parties to the marriage has or is likely to have in the foreseeable future;
- (b) the financial needs, obligations and responsibilities which each of the parties to the marriage has or is likely to have in the foreseeable future ;
- (c) the standard of living enjoyed by the family before the breakdown of the marriage ;
- (d) the age of each party to the marriage and the duration of the marriage;
- (e) any physical or mental disability of either of the parties to the marriage;
- (f) the contributions made by each of the parties to the welfare of the family, including any contribution made by looking after the home or caring for the family;
- (g) in the case of proceedings for divorce or nullity of marriage, the value to either of the parties to the marriage of any benefit (for example, a pension) which, by reason of the dissolution or annulment of the marriage, that party will lose the chance of acquiring ;

and so to exercise those powers as to place the parties, so far as it is practicable and, having regard to their conduct, just to do so, in the financial position in which they would have been if the marriage had not broken down and each had properly discharged his or her financial obligations and responsibilities towards the other.

(2) Without prejudice to subsection (3) below, it shall be the duty of the court in deciding whether to exercise its powers under section 3 or 4 of this Act in relation to a child of the family and, if so, in what manner, to have regard to all the circumstances of the case including the following matters, that is to say—

- (a) the financial needs of the child ;
- (b) the income, earning capacity (if any), property and other financial resources of the child;
- (c) any physical or mental disability of the child ;

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- (d) the standard of living enjoyed by the family before the breakdown of the marriage ;
- (e) the manner in which he was being and in which the parties to the marriage expected him to be educated or trained;

and so to exercise those powers as to place the child, so far as it is practicable and, having regard to the considerations mentioned in relation to the parties to the marriage in paragraphs (a) and (b) of subsection (1) above, just to do so, in the financial position in which the child would have been if the marriage had not broken down and each of those parties had properly discharged his or her financial obligations and responsibilities towards him.

- (3) It shall be the duty of the court in deciding whether to exercise its powers under the said section 3 or 4 against a party to a marriage in favour of a child of the family who is not the child of that party and, if so, in what manner, to have regard (among the circumstances of the case)—
- (a) to whether that party had assumed any responsibility for the child's maintenance and, if so, to the extent to which, and the basis upon which, that party assumed such responsibility and to the length of time for which that party discharged such responsibility ;
 - (b) to whether in assuming and discharging such responsibility that party did so knowing that the child was not his or her own ;
 - (c) to the liability of any other person to maintain the child.