



Matrimonial Proceedings and Property Act 1970

1970 CHAPTER 45

PART II

MISCELLANEOUS PROVISIONS

Provisions relating to orders made by magistrates' courts in matrimonial proceedings

31 Sums paid after cessation of order of magistrates' court by reason of remarriage may be ordered to be repaid in certain cases

After section 13 of the Matrimonial Proceedings (Magistrates' Courts) Act 1960 there shall be inserted the following section—

“13A Orders for repayment in certain cases of sum paid after cessation of order by reason of remarriage.

(1) Where—

- (a) an order to which this section applies or a provision thereof has ceased to have effect by reason of the remarriage of the person entitled to payments under the order, and
- (b) the person liable to make payments under the order made payments in accordance with it in respect of a period after the date of such remarriage in the mistaken belief that the order or provision was still subsisting,

no proceedings in respect of a cause of action arising out of the circumstances mentioned in paragraphs (a) and (b) above shall be maintainable by the person so liable or his or her personal representatives against the person so entitled or her or his personal representatives, but on an application made under this section the court may exercise the powers conferred on it by the following subsection.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

This section applies to an order in relation to which subsection (4) of section 7 of this Act, as amended by the Matrimonial Proceedings and Property Act 1970, applies.

- (2) The court may order the respondent to an application made under this section to pay to the applicant a sum equal to the amount of the payments made in respect of the period mentioned in subsection (1)(b) of this section or, if it appears to the court that it would be unjust to make that order, it may either order the respondent to pay to the applicant such lesser sum as it thinks fit or dismiss the application.
- (3) An application under this section may be made by the person liable to make payments under an order to which this section applies or his or her personal representatives and may be made against the person entitled to payments under the order or her or his personal representatives.
- (4) An application under this section may be made in proceedings in the High Court or a county court for leave to enforce, or the enforcement of, the payment of arrears under an order to which this section applies, but except as aforesaid such an application shall be made to a county court, and accordingly references in this section to the court are references to the High Court or a county court, as the circumstances require.
- (5) An order under this section for the payment of any sum may provide for the payment of that sum by instalments of such amount as may be specified in the order.
- (6) The jurisdiction conferred on a county court by this section shall be exercisable by a county court notwithstanding that by reason of the amount claimed in an application under this section the jurisdiction would not but for this subsection be exercisable by a county court.
- (7) Section 13(1) and (2) of this Act shall not apply to an order under this section.
- (8) The clerk of a magistrates' court to whom any payments under an order to which this section applies are required to be made, and the collecting officer under an attachment of earnings order made to secure payments under the first mentioned order, shall not be liable—
 - (a) in the case of that clerk, for any act done by him in pursuance of the first mentioned order after the date on which that order or a provision thereof ceased to have effect by reason of the remarriage of the person entitled to payments under it, and
 - (b) in the case of the collecting officer, for any act done by him after that date in accordance with any enactment or rule of court specifying how payments made to him in compliance with the attachment of earnings order are to be dealt with,

if, but only if, the act was one which he would have been under a duty to do had the first mentioned order or a provision thereof not ceased to have effect as aforesaid and the act was done before notice in writing of the fact that the person so entitled had remarried was given to him by or on behalf of that person, the person liable to make payments under the first mentioned order or the personal representatives of either of those persons.

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- (9) In this section "collecting officer", in relation to an attachment of earnings order, means the officer of the High Court, the registrar of a county court or the clerk of a magistrates' court to whom a person makes payments in compliance with the order."