



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*

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,

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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 ;
 - (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.