



# Matrimonial Causes Act 1973

## 1973 CHAPTER 18

### PART II

#### FINANCIAL RELIEF FOR PARTIES TO MARRIAGE AND CHILDREN OF FAMILY

*Additional provisions with respect to financial provision and property adjustment orders*

- 28 Duration of continuing financial provision orders in favour of party to marriage, and effect of remarriage [<sup>F1</sup>or formation of civil partnership].**
- (1) [<sup>F2</sup>Subject in the case of an order made on or after the grant of a decree of divorce or nullity of marriage to the provisions of sections 25A(2) above and 31(7) below, the term to be specified in a periodical payments or secured periodical payments order in favour of a party to a marriage shall be such term as the court thinks fit, except that the term shall not begin before or extend beyond the following limits], that is to say—
- (a) in the case of a periodical payments order, the term shall begin not earlier than the date of the making of an application for the order, and shall be so defined as not to extend beyond the death of either of the parties to the marriage or, where the order is made on or after the grant of a decree of divorce or nullity of marriage, the remarriage of [<sup>F3</sup>, or formation of a civil partnership by,] the party in whose favour the order is made; and
  - (b) in the case of a secured periodical payments order, the term shall begin not earlier than the date of the making of an application for the order, and shall be so defined as not to extend beyond the death or, where the order is made on or after the grant of such a decree, the remarriage of [<sup>F3</sup>, or formation of a civil partnership by,] the party in whose favour the order is made.
- [<sup>F4</sup>(1A) Where a periodical payments or secured periodical payments order in favour of a party to a marriage is made on or after the grant of a decree of divorce or nullity of marriage, the court may direct that that party shall not be entitled to apply under section 31 below for the extension of the term specified in the order]
- (2) Where a periodical payments or secured periodical payments order in favour of a party to a marriage is made otherwise than on or after the grant of a decree of divorce or

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nullity of marriage, and the marriage in question is subsequently dissolved or annulled but the order continues in force, the order shall, notwithstanding anything in it, cease to have effect on the remarriage of [<sup>F5</sup>, or formation of a civil partnership by,] that party, except in relation to any arrears due under it on the date of the remarriage [<sup>F6</sup>or formation of the civil partnership].

- (3) If after the grant of a decree dissolving or annulling a marriage either party to that marriage remarries [<sup>F7</sup>whether at any time before or after the commencement of this Act][<sup>F8</sup>or forms a civil partnership], that party shall not be entitled to apply, by reference to the grant of that decree, for a financial provision order in his or her favour, or for a property adjustment order, against the other party to that marriage.

#### Textual Amendments

- F1** Words in s. 28 heading inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1), 263, **Sch. 27 para. 43(5)**; S.I. 2005/3175, **art. 2(2)** (subject to art. 2(3)-(5))
- F2** Words substituted by Matrimonial and Family Proceedings Act 1984 (c. 42, SIF 49:3), **ss. 5(1)**, 48(2)
- F3** Words in s. 28(1)(a)(b) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1), 263, **Sch. 27 para. 43(2)**; S.I. 2005/3175, **art. 2(2)** (subject to art. 2(3)-(5))
- F4** S. 28(1A) inserted by Matrimonial and Family Proceedings Act 1984 (c. 42, SIF 49:3), **ss. 5(2)**, 48(2)
- F5** Words in s. 28(2) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1), 263, **Sch. 27 para. 43(3)(a)**; S.I. 2005/3175, **art. 2(2)** (subject to art. 2(3)-(5))
- F6** Words in s. 28(2) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1), 263, **Sch. 27 para. 43(3)(b)**; S.I. 2005/3175, **art. 2(2)** (subject to art. 2(3)-(5))
- F7** Words inserted by Matrimonial and Family Proceedings Act 1984 (c. 42, SIF 49:3), **ss. 5(3)**, 48(2)
- F8** Words in s. 28(3) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1), 263, **Sch. 27 para. 43(4)**; S.I. 2005/3175, **art. 2(2)** (subject to art. 2(3)-(5))

#### Modifications etc. (not altering text)

- C1** S. 28(1) extended by Matrimonial and Family Proceedings Act 1984 (c. 42, SIF 49:3), **ss. 21(c)**, 48(2)
- C2** S. 28(2) extended by Matrimonial and Family Proceedings Act 1984 (c. 42, SIF 49:3), **ss. 21(c)**, 48(2)

## 29 Duration of continuing financial provision orders in favour of children, and age limit on making certain orders in their favour.

- (1) Subject to subsection (3) below, no financial provision order and no order for a transfer of property under section 24(1)(a) above shall be made in favour of a child who has attained the age of eighteen.
- (2) The term to be specified in a periodical payments or secured periodical payments order in favour of a child may begin with the date of the making of an application for the order in question or any later date [<sup>F9</sup>or a date ascertained in accordance with subsection (5) or (6) below] but—
- (a) shall not in the first instance extend beyond the date of the birthday of the child next following his attaining the upper limit of the compulsory school age [<sup>F10</sup>(construed in accordance with section 8 of the Education Act 1996)][<sup>F11</sup>unless the court considers that in the circumstances of the case the welfare of the child requires that it should extend to a later date]; and
  - (b) shall not in any event, subject to subsection (3) below, extend beyond the date of the child's eighteenth birthday.

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- (3) Subsection (1) above, and paragraph (b) of subsection (2), shall not apply in the case of a child, if it appears to the court that—
- (a) the child is, or will be, or if an order were made without complying with either or both of those provisions would be, receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not he is also, or will also be, in gainful employment; or
  - (b) there are special circumstances which justify the making of an order without complying with either or both of those provisions.
- (4) Any periodical payments order in favour of a child shall, notwithstanding anything in the order, cease to have effect on the death of the person liable to make payments under the order, except in relation to any arrears due under the order on the date of the death.

[<sup>F12</sup>(5) Where—

- (a) a [<sup>F13</sup>maintenance calculation] (“the [<sup>F14</sup>current calculation]”) is in force with respect to a child; and
- (b) an application is made under Part II of this Act for a periodical payments or secured periodical payments order in favour of that child—
  - (i) in accordance with section 8 of the Child Support Act 1991, and
  - (ii) before the end of the period of 6 months beginning with the making of the [<sup>F14</sup>current calculation]

the term to be specified in any such order made on that application may be expressed to begin on, or at any time after, the earliest permitted date.

- (6) For the purposes of subsection (5) above, “the earliest permitted date” is whichever is the later of—
- (a) the date 6 months before the application is made; or
  - (b) the date on which the [<sup>F14</sup>current calculation] took effect or, where successive [<sup>F15</sup> maintenance calculations] have been continuously in force with respect to a child, on which the first of [<sup>F15</sup>those calculations] took effect.

(7) Where—

- (a) a [<sup>F13</sup> maintenance calculation] ceases to have effect [<sup>F16</sup>or is cancelled] by or under any provision of the Child Support Act 1991; and
- (b) an application is made, before the end of the period of 6 months beginning with the relevant date, for a periodical payments or secured periodical payments order in favour of a child with respect to whom that [<sup>F13</sup>maintenance calculation] was in force immediately before it ceased to have effect [<sup>F16</sup>or was cancelled],

the term to be specified in any such order made on that application may begin with the date on which that [<sup>F13</sup>maintenance calculation] ceased to have effect [<sup>F16</sup>or, as the case may be, the date with effect from which it was cancelled], or any later date.

(8) In subsection (7)(b) above—

- (a) where the [<sup>F13</sup> maintenance calculation] ceased to have effect, the relevant date is the date on which it so ceased; [<sup>F17</sup>and]
- (b) [<sup>F17</sup>where the maintenance assessment was cancelled, the relevant date is the later of—
  - (i) the date on which the person who cancelled it did so, and
  - (ii) the date from which the cancellation first had effect.]]

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#### **Textual Amendments**

- F9** Words in s. 29(2) inserted (5.4.1993) by S.I. 1993/623, art. 2, **Sch. 1 para. 1**
- F10** Words in s. 29(2)(a) substituted (1.9.1997) by 1996 c. 56, s. 582(1)(4), **Sch. 37 Pt. II para. 136**; S.I. 1997/1623, **art. 2**
- F11** Words substituted by **Matrimonial and Family Proceedings Act 1984 (c. 42, SIF 49:3), ss. 5(4), 48(2)**
- F12** S. 29(5)-(8) inserted (5.4.1993) by S.I. 1993/623, art. 2, **Sch. 1 para. 2**
- F13** Words in s. 29(5)(a)(7)(8)(a) substituted (3.3.2003 for certain purposes, otherwise prosp.) by 2000 c. 19, ss. 26, 86(2), Sch. 3 para. 3(2)(a) (with s. 83(6)); S.I. 2003/192, **art. 3**, Sch.
- F14** Words in s. 29(5)(a)(b)(ii)(6)(b) substituted (3.3.2003 for certain purposes, otherwise prosp.) by 2000 c. 19, ss. 26, 86(2), Sch. 3 para. 3(2)(b) (with s. 83(6)); S.I. 2003/192, **art. 3**, Sch.
- F15** Words in s. 29(6)(b) substituted (3.3.2003 for certain purposes, otherwise prosp.) by 2000 c. 19, ss. 26, 86(2), Sch. 3 para. 3(2)(c)(d) (with s. 83(6)); S.I. 2003/192, **art. 3**, Sch.
- F16** Words in s. 29(7) repealed (3.3.2003 for certain purposes, otherwise prosp.) by 2000 c. 19, ss. 85, 86(2), Sch. 9 Pt. I (with s. 83(6)); S.I. 2003/192, **art. 3**, Sch.
- F17** S. 29(8)(b) and preceding word repealed (3.3.2003 for certain purposes, otherwise prosp.) by 2000 c. 19, ss. 85, 86(2), Sch. 9 Pt. I (with s. 83(6)); S.I. 2003/192, **art. 3**, Sch.

#### **Modifications etc. (not altering text)**

- C3** S. 29 extended by **Matrimonial and Family Proceedings Act 1984 (c. 42, SIF 49:3), ss. 21(d)**, 48(2)

### **30 Direction for settlement of instrument for securing payments or effecting property adjustment.**

Where the court decides to make a financial provision order requiring any payments to be secured or a property adjustment order—

- (a) it may direct that the matter be referred to one of the conveyancing counsel of the court for him to settle a proper instrument to be executed by all necessary parties; and
- (b) where the order is to be made in proceedings for divorce, nullity of marriage or judicial separation it may, if it thinks fit, defer the grant of the decree in question until the instrument has been duly executed.

#### **Modifications etc. (not altering text)**

- C4** S. 30 extended except para. (b), by **Matrimonial and Family Proceedings Act 1984 (c. 42, SIF 49:3), ss. 21(e)**, 48(2)

**Status:**

Point in time view as at 05/12/2005.

**Changes to legislation:**

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