



Matrimonial Causes Act 1973

1973 CHAPTER 18

PART II

FINANCIAL RELIEF FOR PARTIES TO MARRIAGE AND CHILDREN OF FAMILY

Financial provision in case of neglect to maintain

27 Financial provision orders, etc., in case of neglect by party to marriage to maintain other party or child of the family.

[^{F1}(1) Either party to a marriage may apply to the court for an order under this section on the ground that the other party to the marriage (in this section referred to as the respondent)

- (a) has failed to provide reasonable maintenance for the applicant, or
- (b) has failed to provide, or to make a proper contribution towards, reasonable maintenance for any child of the family.]

[^{F2}(2) The court may not entertain an application under this section unless—

- (a) the applicant or the respondent is domiciled in England and Wales on the date of the application;
- (b) the applicant has been habitually resident there throughout the period of one year ending with that date; or
- (c) the respondent is resident there on that date.

(2A) If the application or part of it relates to a matter in relation to which Article 18 of the 2007 Hague Convention applies, the court may not entertain that application or part of it except where permitted by Article 18.

(2B) In subsection (2A), “the 2007 Hague Convention” means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance concluded on 23 November 2007 at The Hague.]

[^{F3} Where an application under this section is made on the ground mentioned in
^{F4}(3) subsection (1)(a) above, then, in deciding—

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- (a) whether the respondent has failed to provide reasonable maintenance for the applicant, and
 - (b) what order, if any, to make under this section in favour of the applicant,
- the court shall have regard to all the circumstances of the case including the matters mentioned in section 25(2) above, and where an application is also made under this section in respect of a child of the family who has not attained the age of eighteen, first consideration shall be given to the welfare of the child while a minor.]
- (3A) Where an application under this section is made on the ground mentioned in subsection (1)(b) above then, in deciding—
- (a) whether the respondent has failed to provide, or to make a proper contribution towards, reasonable maintenance for the child of the family to whom the application relates, and
 - (b) what order, if any, to make under this section in favour of the child,
- the court shall have regard to all the circumstances of the case including the matters mentioned in [F5section 25(3)(a) to (e)] above, and where the child of the family to whom the application relates is not the child of the respondent, including also the matters mentioned in [F5section 25(4)] above.
- (3B) In relation to an application under this section on the ground mentioned in subsection (1)(a) above, [F6section 25(2)(c) above] shall have effect as if for the reference therein to the breakdown of the marriage there were substituted a reference to the failure to provide reasonable maintenance for the applicant, and in relation to an application under this section on the ground mentioned in subsection (1)(b) above, [F6section 25(2)(c) above (as it applies by virtue of section 25(3)(e) above)] shall have effect as if for the reference therein to the breakdown of the marriage there were substituted a reference to the failure to provide, or to make a proper contribution towards, reasonable maintenance for the child of the family to whom the application relates.]
- (5) Where on an application under this section it appears to the court that the applicant or any child of the family to whom the application relates 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, the court may make an interim order for maintenance, that is to say, an order requiring the respondent to make to the applicant until the determination of the application such periodical payments as the court thinks reasonable.
- (6) Where on an application under this section the applicant satisfies the court of any ground mentioned in subsection (1) above, the court may make [F7any one or more of the following orders], that is to say—
- (a) an order that the respondent shall make to the applicant such periodical payments, for such term, as may be specified in the order;
 - (b) an order that the respondent shall secure to the applicant, to the satisfaction of the court, such periodical payments, for such term, as may be so specified;
 - (c) an order that the respondent shall pay to the applicant such lump sum as may be so specified;
 - (d) an order that the respondent shall make to such person as may be specified in the order for the benefit of the child to whom the application relates, or to that child, such periodical payments, for such term, as may be so specified;

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(e) an order that the respondent shall secure to such person as may be so specified for the benefit of that child, or to that child, to the satisfaction of the court, such periodical payments, for such term, as may be so specified;

(f) an order that the respondent shall pay to such person as may be so specified for the benefit of that child, or to that child, such lump sum as may be so specified;

subject, however, in the case of an order under paragraph (d), (e) or (f) above, to the restrictions imposed by section 29(1) and (3) below on the making of financial provision orders in favour of children who have attained the age of eighteen.

[^{F8}(6A) An application for the variation under section 31 of this Act of a periodical payments order or secured periodical payments order made under this section in favour of a child may, if the child has attained the age of sixteen, be made by the child himself.

[Where a periodical payments order made in favour of a child under this section ceases ^{F9}(6B) to have effect on the date on which the child attains the age of sixteen or at any time after that date but before or on the date on which he attains the age of eighteen, then if, on an application made to the court for an order under this subsection, it appears to the court that—

(a) the child is, will be or (if an order were made under this subsection) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not he also is, will be or would be in gainful employment; or

(b) there are special circumstances which justify the making of an order under this subsection,

the court shall have power by order to revive the first mentioned order from such date as the court may specify, not being earlier than the date of the making of the application, and to exercise its power under section 31 of this Act in relation to any order so revived.]]

(7) Without prejudice to the generality of subsection (6)(c) or (f) above, an order under this section for the payment of a lump sum—

(a) may be made for the purpose of enabling any liabilities or expenses reasonably incurred in maintaining the applicant or any child of the family to whom the application relates before the making of the application to be met;

(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.

^{F10}(8)

Textual Amendments

F1 S. 27(1) substituted by [Domestic Proceedings and Magistrates' Courts Act 1978 \(c. 22\), ss. 63\(1\), 89\(2\)](#)

F2 S. 27(2)-(2B) substituted for s. 27(2) (31.12.2020) by [S.I. 2019/519, Sch. para. 6\(2\)](#) (with [reg. 8](#)) (as substituted by [The Jurisdiction, Judgments and Applicable Law \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1574\)](#), [regs. 1, 5\(2\)\(3\)\(b\)](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))

F3 S. 27(3)(3A)(3B) substituted for s. 27(3)(4) by [Domestic Proceedings and Magistrates' Courts Act 1978 \(c. 22\), ss. 63\(2\), 89\(2\)](#)

F4 S. 27(3) substituted by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\), ss. 4, 48\(2\)](#)

F5 Words substituted by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\), ss. 46\(1\), 48\(3\), Sch. 1 para. 12\(a\)](#)

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- F6** Words substituted by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), ss. 46(1), 48(2), **Sch. 1 para. 12(b)**
- F7** Words substituted by [Domestic Proceedings and Magistrates' Courts Act 1978 \(c. 22\)](#), ss. **63(3)**, 89(2)
- F8** S. 27(6A)(6B) inserted by [Domestic Proceedings and Magistrates' Courts Act 1978 \(c. 22\)](#), ss. **63(4)**, 89(2)
- F9** S. 27(6B) substituted by [Family Law Reform Act 1987 \(c. 42, SIF 49:7\)](#), ss. 33(1), **Sch. 2 para. 52**
- F10** S. 27(8) repealed by [Domestic Proceedings and Magistrates' Courts Act 1978 \(c. 22\)](#), s. 89(2), **Sch. 3**

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