



Domestic Proceedings and Magistrates' Courts Act 1978

1978 CHAPTER 22

PART II

AMENDMENTS OF THE GUARDIANSHIP OF MINORS ACTS 1971 AND 1973

Amendment of provisions relating to orders for maintenance

43 Further provisions as to orders for maintenance

In the Guardianship of Minors Act 1971 the following sections shall be inserted after section 12—

“12A Matters to which court is to have regard in making orders for maintenance.

In deciding whether to exercise its powers under section 9(2), 10(1)(b) or 11(b) of this Act and, if so, in what manner, the court shall 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 parent of the minor has or is likely to have in the foreseeable future;
- (b) the financial needs, obligations and responsibilities which each parent of the minor has or is likely to have in the foreseeable future;
- (c) the financial needs of the minor;
- (d) the income, earning capacity (if any), property and other financial resources of the minor;
- (e) any physical or mental disability of the minor.

12B Provisions relating to lump sums.

- (1) Without prejudice to the generality of sections 9(2), 10(1)(b) and 11(b) of this Act, an order under any of those provisions for the payment of a lump sum may be made for the purpose of enabling any liabilities or expenses reasonably incurred in maintaining the minor before the making of the order to be met.
- (2) The amount of any lump sum required to be paid by an order made by a magistrates' court under section 9(2), 10(1)(b) or 11(b) of this Act shall not exceed £500 or such larger amount as the Secretary of State may from time to time by order fix for the purposes of this subsection.

Any order made by the Secretary of State under this subsection shall be made by statutory instrument and shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) The power of the court under section 9, 10 or 11 of this Act to vary or discharge an order for the making of periodical payments by a parent of a minor shall include power to make an order under the said section 9, 10 or 11, as the case may be, for the payment of a lump sum by that parent.
- (4) The amount of any lump sum which a parent may be required to pay by virtue of subsection (3) above shall not, in the case of an order made by a magistrates' court, exceed the maximum amount that may at the time of the making of the order be required to be paid under subsection (2) above, but a magistrates' court may make an order for the payment of a lump sum not exceeding that amount notwithstanding that the parent was required to pay a lump sum by a previous order under this Act.
- (5) An order made under section 9, 10 or 11 of this Act for the payment of a lump sum may provide for the payment of that sum by instalments, and where the court provides for the payment of a lump sum by instalments the court, on an application made either by the person liable to pay or the person entitled to receive that sum, shall have power to vary that order by varying the number of instalments payable, the amount of any instalment payable and the date on which any instalment becomes payable.

12C Variation etc. of orders for periodical payments.

- (1) In exercising its powers under section 9, 10 or 11 of this Act to vary or discharge an order for the making of periodical payments the court shall have regard to all the circumstances of the case, including any change in any of the matters to which the court was required to have regard when making the order.
- (2) The power of the court under section 9, 10 or 11 of this Act to vary an order for the making of periodical payments shall include power to suspend any provision thereof temporarily and to revive any provision so suspended.
- (3) Where on an application under section 9, 10 or 11 of this Act for the variation or discharge of an order for the making of periodical payments the court varies the payments required to be made under that order, the court may provide that the payments as so varied shall be made from such date as the court may specify, not being earlier than the date of the making of the application.

Status: This is the original version (as it was originally enacted).

- (4) An application for the variation of an order made under section 9, 10 or 11 of this Act for the making of periodical payments to or for the benefit of a minor may, if the minor has attained the age of sixteen, be made by the minor himself.
- (5) Where an order for the making of periodical payments made under sections 9, 10 or 11 of this Act ceases to have effect on the date on which the minor 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 at any time before he attains the age of twenty-one an application is made by the minor for 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 vary or discharge under section 9, 10 or 11 of this Act, as the case may be, any order so revived.”.