



# Matrimonial Causes Act 1973

## 1973 CHAPTER 18

### PART II

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

*Ancillary relief in connection with divorce proceedings, etc.*

#### **22 Maintenance pending suit.**

On a petition for divorce, nullity of marriage or judicial separation, the court may make an order for maintenance pending suit, that is to say, an order requiring either party to the marriage to make to the other such periodical payments for his or her maintenance and for such term, being a term beginning not earlier than the date of the presentation of the petition and ending with the date of the determination of the suit, as the court thinks reasonable.

#### **23 Financial provision orders in connection with divorce proceedings, etc.**

- (1) On granting a decree of divorce, a decree of nullity of marriage or a decree of judicial separation or at any time thereafter (whether, in the case of a decree of divorce or of nullity of marriage, before or after the decree is made absolute), the court may make any one or more of the following orders, that is to say—
- (a) an order that either party to the marriage shall make to the other such periodical payments, for such term, as may be specified in the order;
  - (b) an order that either party to the marriage shall secure to the other to the satisfaction of the court such periodical payments, for such term, as may be so specified;
  - (c) an order that either party to the marriage shall pay to the other such lump sum or sums as may be so specified;
  - (d) an order that a party to the marriage shall make to such person as may be specified in the order for the benefit of a child of the family, or to such a child, such periodical payments, for such term, as may be so specified;

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- (e) an order that a party to the marriage shall secure to such person as may be so specified for the benefit of such a child, or to such a child, to the satisfaction of the court, such periodical payments, for such term, as may be so specified;
- (f) an order that a party to the marriage shall pay to such person as may be so specified for the benefit of such a child, or to such a 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.

- (2) The court may also, subject to those restrictions, make any one or more of the orders mentioned in subsection (1)(d), (e) and (f) above—
  - (a) in any proceedings for divorce, nullity of marriage or judicial separation, before granting a decree; and
  - (b) where any such proceedings are dismissed after the beginning of the trial, either forthwith or within a reasonable period after the dismissal.
- (3) Without prejudice to the generality of subsection (1)(c) or (f) above—
  - (a) an order under this section that a party to a marriage shall pay a lump sum to the other party may be made for the purpose of enabling that other party to meet any liabilities or expenses reasonably incurred by him or her in maintaining himself or herself or any child of the family before making an application for an order under this section in his or her favour;
  - (b) an order under this section for the payment of a lump sum to or for the benefit of a child of the family may be made for the purpose of enabling any liabilities or expenses reasonably incurred by or for the benefit of that child before the making of an application for an order under this section in his favour to be met; and
  - (c) an order under this section for the payment of a lump sum 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.
- (4) The power of the court under subsection (1) or (2)(a) above to make an order in favour of a child of the family shall be exercisable from time to time; and where the court makes an order in favour of a child under subsection (2)(b) above, it may from time to time, subject to the restrictions mentioned in subsection (1) above, make a further order in his favour of any of the kinds mentioned in subsection (1)(d), (e) or (f) above.
- (5) Without prejudice to the power to give a direction under section 30 below for the settlement of an instrument by conveyancing counsel, where an order is made under subsection (1)(a), (b) or (c) above on or after granting a decree of divorce or nullity of marriage, neither the order nor any settlement made in pursuance of the order shall take effect unless the decree has been made absolute.

[<sup>F1</sup>(6) Where the court—

- (a) makes an order under this section for the payment of a lump sum; and
- (b) directs—
  - (i) that payment of that sum or any part of it shall be deferred; or
  - (ii) that that sum or any part of it shall be paid by instalments,

the court may order that the amount deferred or the instalments shall carry interest at such rate as may be specified by the order from such

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date, not earlier than the date of the order, as may be so specified, until the date when payment of it is due.]

#### Textual Amendments

**F1** S. 23(6) added by [Administration of Justice Act 1982 \(c. 53, SIF 37\)](#), **ss. 16, 77(1)**

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

**C1** S. 23(3) extended by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), **ss. 21(a), 48(2)**

## 24 Property adjustment orders in connection with divorce proceedings, etc.

(1) On granting a decree of divorce, a decree of nullity of marriage or a decree of judicial separation or at any time thereafter (whether, in the case of a decree of divorce or of nullity of marriage, before or after the decree is made absolute), the court may make any one or more of the following orders, that is to say—

- (a) an order that a party to the marriage shall transfer to the other party, to any child of the family or to such person as may be specified in the order for the benefit of such a child such property as may be so specified, being property to which the first-mentioned party is entitled, either in possession or reversion;
- (b) an order that a settlement of such property as may be so specified, being property to which a party to the marriage is so entitled, be made to the satisfaction of the court for the benefit of the other party to the marriage and of the children of the family or either or any of them;
- (c) an order varying for the benefit of the parties to the marriage and of the children of the family or either or any of them any ante-nuptial or post-nuptial settlement (including such a settlement made by will or codicil) made on the parties to the marriage [<sup>F2</sup>, other than one in the form of a pension arrangement (within the meaning of section 25D below)];
- (d) an order extinguishing or reducing the interest of either of the parties to the marriage under any such settlement [<sup>F2</sup>, other than one in the form of a pension arrangement (within the meaning of section 25D below)];

subject, however, in the case of an order under paragraph (a) above, to the restrictions imposed by section 29(1) and (3) below on the making of orders for a transfer of property in favour of children who have attained the age of eighteen.

- (2) The court may make an order under subsection (1)(c) above notwithstanding that there are no children of the family.
- (3) Without prejudice to the power to give a direction under section 30 below for the settlement of an instrument by conveyancing counsel, where an order is made under this section on or after granting a decree of divorce or nullity of marriage, neither the order nor any settlement made in pursuance of the order shall take effect unless the decree has been made absolute.

#### Textual Amendments

**F2** Words in s. 24(1)(c)(d) inserted (11.11.1999 for certain purposes and otherwise 1.12.2000) by [1999 c. 30, s. 19, Sch. 3 para. 3; S.I. 2000/1116, art. 2](#)

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### [<sup>F3</sup>24A Orders for sale of property

- (1) Where the court makes under section 23 or 24 of this Act a secured periodical payments order, an order for the payment of a lump sum or a property adjustment order, then, on making that order or at any time thereafter, the court may make a further order for the sale of such property as may be specified in the order, being property in which or in the proceeds of sale of which either or both of the parties to the marriage has or have a beneficial interest, either in possession or reversion.
- (2) Any order made under subsection (1) above may contain such consequential or supplementary provisions as the court thinks fit and, without prejudice to the generality of the foregoing provision, may include—
  - (a) provision requiring the making of a payment out of the proceeds of sale of the property to which the order relates, and
  - (b) provision requiring any such property to be offered for sale to a person, or class of persons, specified in the order.
- (3) Where an order is made under subsection (1) above on or after the grant of a decree of divorce or nullity of marriage, the order shall not take effect unless the decree has been made absolute.
- (4) Where an order is made under subsection (1) above, the court may direct that the order, or such provision thereof as the court may specify, shall not take effect until the occurrence of an event specified by the court or the expiration of a period so specified.
- (5) Where an order under subsection (1) above contains a provision requiring the proceeds of sale of the property to which the order relates to be used to secure periodical payments to a party to the marriage, the order shall cease to have effect on the death or re-marriage of [<sup>F4</sup>, or formation of a civil partnership by,] that person.

[ Where a party to a marriage has a beneficial interest in any property, or in the proceeds <sup>F5</sup>(6) of sale thereof, and some other person who is not a party to the marriage also has a beneficial interest in that property or in the proceeds of sale thereof, then, before deciding whether to make an order under this section in relation to that property, it shall be the duty of the court to give that other person an opportunity to make representations with respect to the order; and any representations made by that other person shall be included among the circumstances to which the court is required to have regard under section 25(1) below.]]

#### Textual Amendments

- F3** S. 24A inserted by [Matrimonial Homes and Property Act 1981 \(c. 24, SIF 49:5\)](#), s. 7
- F4** Words in s. 24A(5) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 261(1), 263, [Sch. 27 para. 42](#); [S.I. 2005/3175, art. 2\(2\)](#) (subject to art. 2(3)-(5))
- F5** S. 24A(6) added by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), ss. 46(1), 48(3), [Sch. 1 para. 11](#)

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

- C2** S. 24A(2)(4)(5)(6) extended by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), ss. [21\(b\)](#), 48(2)

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#### [<sup>F6</sup>24B Pension sharing orders in connection with divorce proceedings etc.

- (1) On granting a decree of divorce or a decree of nullity of marriage or at any time thereafter (whether before or after the decree is made absolute), the court may, on an application made under this section, make one or more pension sharing orders in relation to the marriage.
- (2) A pension sharing order under this section is not to take effect unless the decree on or after which it is made has been made absolute.
- (3) A pension sharing order under this section may not be made in relation to a pension arrangement which—
  - (a) is the subject of a pension sharing order in relation to the marriage, or
  - (b) has been the subject of pension sharing between the parties to the marriage.
- (4) A pension sharing order under this section may not be made in relation to shareable state scheme rights if—
  - (a) such rights are the subject of a pension sharing order in relation to the marriage, or
  - (b) such rights have been the subject of pension sharing between the parties to the marriage.
- (5) A pension sharing order under this section may not be made in relation to the rights of a person under a pension arrangement if there is in force a requirement imposed by virtue of section 25B or 25C below which relates to benefits or future benefits to which he is entitled under the pension arrangement.]

##### Textual Amendments

**F6** S. 24B and sidenote inserted (11.11.1999 for certain purposes and otherwise 1.12.2000) by 1999 c. 30, s. 19, Sch. 3 para. 4; S.I. 2000/1116, art. 2

#### [<sup>F7</sup>24C Pension sharing orders: duty to stay.

- (1) No pension sharing order may be made so as to take effect before the end of such period after the making of the order as may be prescribed by regulations made by the Lord Chancellor.
- (2) The power to make regulations under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

##### Textual Amendments

**F7** S. 24C and sidenote inserted (11.11.1999 for certain purposes and otherwise 1.12.2000) by 1999 c. 30, s. 19, Sch. 3 para. 4; S.I. 2000/1116, art. 2

#### [<sup>F8</sup>24D Pension sharing orders: apportionment of charges.

If a pension sharing order relates to rights under a pension arrangement, the court may include in the order provision about the apportionment between the parties of any charge under section 41 of the Welfare Reform and Pensions Act 1999

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(charges in respect of pension sharing costs), or under corresponding Northern Ireland legislation.]

#### Textual Amendments

**F8** S. 24D and sidenote inserted (11.11.1999 for certain purposes and otherwise 1.12.2000) by 1999 c. 30, s. 19, Sch. 3 para. 4; S.I. 2000/1116, art. 2

### [<sup>F9</sup>25 **Matters to which court is to have regard in deciding how to exercise its powers under ss. 23, 24 and 24A.**

- (1) It shall be the duty of the court in deciding whether to exercise its powers under section 23, 24 [<sup>F10</sup>, 24A or 24B] above and, if so, in what manner, to have regard to all the circumstances of the case, first consideration being given to the welfare while a minor of any child of the family who has not attained the age of eighteen.
- (2) As regards the exercise of the powers of the court under section 23(1)(a), (b) or (c), 24 [<sup>F11</sup>, 24A or 24B] above in relation to a party to the marriage, the court shall in particular have regard to the following matters—
  - (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, including in the case of earning capacity any increase in that capacity which it would in the opinion of the court be reasonable to expect a party to the marriage to take steps to acquire;
  - (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 which each of the parties has made or is likely in the foreseeable future to make to the welfare of the family, including any contribution by looking after the home or caring for the family;
  - (g) the conduct of each of the parties, if that conduct is such that it would in the opinion of the court be inequitable to disregard it;
  - (h) in the case of proceedings for divorce or nullity of marriage, the value to each of the parties to the marriage of any benefit <sup>F12</sup> . . . which, by reason of the dissolution or annulment of the marriage, that party will lose the chance of acquiring.
- (3) As regards the exercise of the powers of the court under section 23(1)(d), (e) or (f), (2) or (4), 24 or 24A above in relation to a child of the family, the court shall in particular have regard to the following matters—
  - (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 manner in which he was being and in which the parties to the marriage expected him to be educated or trained;

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- (e) the considerations mentioned in relation to the parties to the marriage in paragraphs (a), (b), (c) and (e) of subsection (2) above.
- (4) As regards the exercise of the powers of the court under section 23(1)(d), (e) or (f), (2) or (4), 24 or 24A above against a party to a marriage in favour of a child of the family who is not the child of that party, the court shall also have regard—
- (a) to whether that party 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.]

#### Textual Amendments

- F9** Ss. 25, 25A substituted for s. 25 by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), [ss. 3, 48\(2\)](#)
- F10** Words in s. 25(1) substituted (11.11.1999 for certain purposes and otherwise 1.12.2000) by [1999 c. 30, s. 19, Sch. 3 para. 5\(a\)](#); [S.I. 2000/1116, art. 2](#)
- F11** Words in s. 25(2) substituted (11.11.1999 for certain purposes and otherwise 1.12.2000) by [1999 c. 30, s. 19, Sch. 3 para. 5\(b\)](#); [S.I. 2000/1116, art. 2](#)
- F12** Words in s. 25(2)(h) omitted (1.8.1996) by virtue of [1995 c. 26, s. 166\(2\)](#); [S.I. 1996/1675, art. 3\(b\)](#)

#### [<sup>F13</sup>25A Exercise of court's powers in favour of party to marriage on decree of divorce or nullity of marriage.

- (1) Where on or after the grant of a decree of divorce or nullity of marriage the court decides to exercise its powers under section 23(1)(a), (b) or (c), 24 or [<sup>F14</sup> 24A or 24B]above in favour of a party to the marriage, it shall be the duty of the court to consider whether it would be appropriate so to exercise those powers that the financial obligations of each party towards the other will be terminated as soon after the grant of the decree as the court considers just and reasonable.
- (2) Where the court decides in such a case to make a periodical payments or secured periodical payments order in favour of a party to the marriage, the court shall in particular consider whether it would be appropriate to require those payments to be made or secured only for such term as would in the opinion of the court be sufficient to enable the party in whose favour the order is made to adjust without undue hardship to the termination of his or her financial dependence on the other party.
- (3) Where on or after the grant of a decree of divorce or nullity of marriage an application is made by a party to the marriage for a periodical payments or secured periodical payments order in his or her favour, then, if the court considers that no continuing obligation should be imposed on either party to make or secure periodical payments in favour of the other, the court may dismiss the application with a direction that the applicant shall not be entitled to make any further application in relation to that marriage for an order under section 23(1)(a) or (b) above.]



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### Textual Amendments

- F13** Ss. 25, 25A substituted for s. 25 by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), [ss. 3, 48\(2\)](#)
- F14** Words in s. 25A(1) substituted (11.11.1999 for certain purposes and otherwise 1.12.2000) by [1999 c. 30, ss. 19, 89, Sch. 3 para. 6](#); [S.I. 2000/1116, art. 2](#)

### [<sup>F15</sup>25B Pensions.

- (1) The matters to which the court is to have regard under section 25(2) above include—
- (a) in the case of paragraph (a), any benefits under a pension [<sup>F16</sup>arrangement] which a party to the marriage has or is likely to have, and
  - (b) in the case of paragraph (h), any benefits under a pension [<sup>F16</sup>arrangement] which, by reason of the dissolution or annulment of the marriage, a party to the marriage will lose the chance of acquiring,
- and, accordingly, in relation to benefits under a pension [<sup>F16</sup>arrangement], section 25(2) (a) above shall have effect as if “in the foreseeable future” were omitted.
- [ In any proceedings for a financial provision order under section 23 above in a case
- <sup>F17</sup>(2) where a party to the marriage has, or is likely to have, any benefit under a pension scheme, the court shall, in addition to considering any other matter which it is required to consider apart from this subsection, consider—
- (a) whether, having regard to any matter to which it is required to have regard in the proceedings by virtue of subsection (1) above, such an order (whether deferred or not) should be made, and
  - (b) where the court determines to make such an order, how the terms of the order should be affected, having regard to any such matter.]
- (3) The following provisions apply where, having regard to any benefits under a pension [<sup>F18</sup>arrangement], the court determines to make an order under section 23 above.
- (4) To the extent to which the order is made having regard to any benefits under a pension [<sup>F19</sup>arrangement], the order may require the [<sup>F20</sup>person responsible for] the pension [<sup>F19</sup>arrangement] in question, if at any time any payment in respect of any benefits under the [<sup>F19</sup>arrangement] becomes due to the party with pension rights, to make a payment for the benefit of the other party.
- [ The order must express the amount of any payment required to be made by virtue of
- <sup>F21</sup>(5) subsection (4) above as a percentage of the payment which becomes due to the party with pension rights.]
- (6) Any such payment by the [<sup>F22</sup>person responsible for the arrangement]—
- (a) shall discharge so much of [<sup>F23</sup>his] liability to the party with pension rights as corresponds to the amount of the payment, and
  - (b) shall be treated for all purposes as a payment made by the party with pension rights in or towards the discharge of his liability under the order.
- (7) Where the party with pension rights [<sup>F24</sup>has a right of commutation under the arrangement, the order may require him to exercise it to any extent]; and this section applies to the [<sup>F25</sup>any payment due in consequence of commutation] in pursuance of the order as it applies to other payments in respect of benefits under the [<sup>F26</sup>arrangement].



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[ The power conferred by subsection (7) above may not be exercised for the purpose  
F27(7A) of commuting a benefit payable to the party with pension rights to a benefit payable to the other party.

(7B) The power conferred by subsection (4) or (7) above may not be exercised in relation to a pension arrangement which—

- (a) is the subject of a pension sharing order in relation to the marriage, or
- (b) has been the subject of pension sharing between the parties to the marriage.

(7C) In subsection (1) above, references to benefits under a pension arrangement include any benefits by way of pension, whether under a pension arrangement or not.]]

#### Textual Amendments

- F15 S. 25B inserted (1.8.1996 with effect as mentioned in S.I. 1996/1675, art. 4) by 1995 c. 26, s. 166(1); S.I. 1996/1675, art. 3(b)
- F16 Words in s. 25B(1)(a)(b) substituted (11.11.1999 for certain purposes and otherwise 1.12.2000) by 1999 c. 30, s. 21, Sch. 4 para. 1(1)(2); S.I. 2000/1116, art. 2
- F17 S. 25B(2) repealed (11.11.1999 for certain purposes and otherwise 1.12.2000) by 1999 c. 30, s. 21, 88, Sch. 4 para. 1(1)(3), Sch. 13 Pt. II; S.I. 2000/1116, art. 2
- F18 Word in s. 25B(3) substituted (11.11.1999 for certain purposes and otherwise 1.12.2000) by 1999 c. 30, s. 21, Sch. 4 para. 1(1)(4); S.I. 2000/1116, art. 2
- F19 Words in s. 25B(4) substituted (11.11.1999 for certain purposes and otherwise 1.12.2000) by 1999 c. 30, s. 21, Sch. 4 para. 1(1)(5)(a); S.I. 2000/1116, art. 2
- F20 Words in s. 25B(4) substituted (11.11.1999 for certain purposes and otherwise 1.12.2000) by 1999 c. 30, s. 21, Sch. 4 para. 1(1)(5)(b); S.I. 2000/1116, art. 2
- F21 S. 25B(5) substituted (11.11.1999 for certain purposes and otherwise 1.12.2000) by 1999 c. 30, s. 21, Sch. 4 para. 1(1)(6); S.I. 2000/1116, art. 2
- F22 Words in s. 25B(6) substituted (11.11.1999 for certain purposes and otherwise 1.12.2000) by 1999 c. 30, s. 21, Sch. 4 para. 1(1)(7)(a); S.I. 2000/1116, art. 2
- F23 Words in s. 25B(6)(a) substituted (11.11.1999 for certain purposes and otherwise 1.12.2000) by 1999 c. 30, s. 21, Sch. 4 para. 1(1)(7)(b); S.I. 2000/1116, art. 2
- F24 Words in s. 25B(7) substituted (11.11.1999 for certain purposes and otherwise 1.12.2000) by 1999 c. 30, s. 21, Sch. 4 para. 1(1)(8)(a); S.I. 2000/1116, art. 2
- F25 Words in s. 25B(7) substituted (11.11.1999 for certain purposes and otherwise 1.12.2000) by 1999 c. 30, s. 21, Sch. 4 para. 1(1)(8)(b); S.I. 2000/1116, art. 2
- F26 Words in s. 25B(7) substituted (11.11.1999 for certain purposes and otherwise *prosp.*) by 1999 c. 30, ss. 21, 89(2)(a)(5), Sch. 4 para. 1(1)(8)(c)
- F27 S. 25B(7A)-(7C) inserted (11.11.1999 for certain purposes and otherwise 1.12.2000) by 1999 c. 30, s. 21, Sch. 4 para. 1(1)(9); S.I. 2000/1116, art. 2

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

- C3 S. 25B modified (8.8.2006) by The Divorce etc. (Pension Protection Fund) Regulations 2006 (S.I. 2006/1932), reg. 4(2)(b)
- C4 S. 25B(6) modified (8.8.2006) by The Divorce etc. (Pension Protection Fund) Regulations 2006 (S.I. 2006/1932), reg. 2

#### [F28] 25C Pensions: lump sums.

- (1) The power of the court under section 23 above to order a party to a marriage to pay a lump sum to the other party includes, where the benefits which the party with pension

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rights has or is likely to have under a pension [F29arrangement]] include any lump sum payable in respect of his death, power to make any of the following provision by the order.

- (2) The court may—
- (a) if the [F30person responsible for the pension arrangement in question has] power to determine the person to whom the sum, or any part of it, is to be paid, require [F31him]to pay the whole or part of that sum, when it becomes due, to the other party,
  - (b) if the party with pension rights has power to nominate the person to whom the sum, or any part of it, is to be paid, require the party with pension rights to nominate the other party in respect of the whole or part of that sum,
  - (c) in any other case, require the [F32person responsible for the pension arrangement] in question to pay the whole or part of that sum, when it becomes due, for the benefit of the other party instead of to the person to whom, apart from the order, it would be paid.
- (3) Any payment by the [F33person responsible for the arrangement] under an order made under section 23 above by virtue of this section shall discharge so much of [F34his] liability in respect of the party with pension rights as corresponds to the amount of the payment.
- [F35(4) The powers conferred by this section may not be exercised in relation to a pension arrangement which—
- (a) is the subject of a pension sharing order in relation to the marriage, or
  - (b) has been the subject of pension sharing between the parties to the marriage.]

#### Textual Amendments

- F28** S. 25C inserted (1.8.1996 with effect as mentioned in S.I. 1996/1675) by 1995 c. 26, s. 166(1); S.I. 1996/1675, art. 3(b)
- F29** Word in s. 25C(1) substituted (11.11.1999 for certain purposes and otherwise 1.12.2000) by 1999 c. 30, s. 21, Sch. 4 para. 2(1)(2); S.I. 2000/1116, art. 2
- F30** Words in s. 25C(2)(a) substituted (11.11.1999 for certain purposes and otherwise 1.12.2000) by 1999 c. 30, s. 21, Sch. 4 para. 2(1)(3)(a)(i); S.I. 2000/1116, art. 2
- F31** Word in s. 25C(2)(a) substituted (11.11.1999 for certain purposes and otherwise 1.12.2000) by 1999 c. 30, s. 21, Sch. 4 para. 2(1)(3)(a)(ii); S.I. 2000/1116, art. 2
- F32** Words in s. 25C(2)(c) substituted (11.11.1999 for certain purposes and otherwise 1.12.2000) by 1999 c. 30, s. 21, Sch. 4 para. 2(1)(3)(b); S.I. 2000/1116, art. 2
- F33** Words in s. 25C(3) substituted (11.11.1999 for certain puurposes and otherwise 1.12.2000) by 1999 c. 30, s. 21, Sch. 4 para. 2(1)(4)(a); S.I. 2000/1116, art. 2
- F34** Words in s. 25C(3) substituted (11.11.1999 for certain purposes and otherwise 1.12.2000) by 1999 c. 30, s. 21, Sch. 4 para. 2(4)(b); S.I. 2000/1116, art. 2
- F35** S. 25C(4) inserted (11.11.1999 for certain purposes and otherwise 1.12.2000) by 1999 c. 30, s. 21, Sch. 4 para. 2(5); S.I. 2000/1116, art. 2

#### [F3625D Pensions: supplementary.

- (1) Where—
- (a) an order made under section 23 above by virtue of section 25B or 25C above imposes any requirement on the person responsible for a pension arrangement (“the first arrangement”) and the party with pension rights

*Status: Point in time view as at 01/01/2006.*

**Changes to legislation:** There are currently no known outstanding effects for the Matrimonial Causes Act 1973,  
*Cross Heading: Ancillary relief in connection with divorce proceedings, etc.. (See end of Document for details)*

acquires rights under another pension arrangement (“the new arrangement”) which are derived (directly or indirectly) from the whole of his rights under the first arrangement, and

- (b) the person responsible for the new arrangement has been given notice in accordance with regulations made by the Lord Chancellor,

the order shall have effect as if it had been made instead in respect of the person responsible for the new arrangement.]

(2) [<sup>F37</sup>The Lord Chancellor may by regulations]—

- (a) in relation to any provision of sections 25B or 25C above which authorises the court making an order under section 23 above to require the [<sup>F38</sup>person responsible for a pension arrangement] to make a payment for the benefit of the other party, make provision as to the person to whom, and the terms on which, the payment is to be made,

[<sup>F39</sup>(ab) make, in relation to payment under a mistaken belief as to the continuation in force of a provision included by virtue of section 25B or 25C above in an order under section 23 above, provision about the rights or liabilities of the payer, the payee or the person to whom the payment was due,]

- (b) require notices to be given in respect of changes of circumstances relevant to such orders which include provision made by virtue of sections 25B and 25C above,

[<sup>F40</sup>(ba) make provision for the person responsible for a pension arrangement to be discharged in prescribed circumstances from a requirement imposed by virtue of section 25B or 25C above,]

[<sup>F41</sup>(c) make provision for the trustees or managers of any pension scheme to provide, for the purposes of orders under section 23 above, information as to the value of any benefits under the scheme,]

[<sup>F41</sup>(d) make provision for the recovery of the administrative expenses of—  
(i) complying with such orders, so far as they include provision made by virtue of sections 25B and 25C above, and  
(ii) providing such information,  
from the party with pension rights or the other party,]

[<sup>F42</sup>(e) make provision about calculation and verification in relation to the valuation of—  
(i) benefits under a pension arrangement, or  
(ii) shareable state scheme rights,

for the purposes of the court’s functions in connection with the exercise of any of its powers under this Part of this Act.]

[<sup>F43</sup>and regulations made by virtue of paragraph (e) above may provide for that value to be calculated and verified in accordance with guidance which is prepared and from time to time revised by a prescribed person and approved by the Secretary of State.]

[<sup>F44</sup>(2A) Regulations under subsection (2)(e) above may include—

- (a) provision for calculation or verification in accordance with guidance from time to time prepared by a prescribed person, and  
(b) provision by reference to regulations under section 30 or 49(4) of the Welfare Reform and Pensions Act 1999.

(2B) Regulations under subsection (2) above may make different provision for different cases.

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Matrimonial Causes Act 1973,  
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(2C) Power to make regulations under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

[<sup>F45</sup>(3) In this section and sections 25B and 25C above—

“occupational pension scheme” has the same meaning as in the <sup>M1</sup>Pension Schemes Act 1993;

“the party with pension rights” means the party to the marriage who has or is likely to have benefits under a pension arrangement and “the other party” means the other party to the marriage;

“pension arrangement” means—

- (a) an occupational pension scheme,
- (b) a personal pension scheme,
- (c) a retirement annuity contract,
- (d) an annuity or insurance policy purchased, or transferred, for the purpose of giving effect to rights under an occupational pension scheme or a personal pension scheme, and
- (e) an annuity purchased, or entered into, for the purpose of discharging liability in respect of a pension credit under section 29(1)(b) of the Welfare Reform and Pensions Act 1999 or under corresponding Northern Ireland legislation;

“personal pension scheme” has the same meaning as in the Pension Schemes Act 1993;

“prescribed” means prescribed by regulations;

“retirement annuity contract” means a contract or scheme approved under Chapter III of Part XIV of the <sup>M2</sup>Income and Corporation Taxes Act 1988;

“shareable state scheme rights” has the same meaning as in section 21A(1) above; and

“trustees or managers”, in relation to an occupational pension scheme or a personal pension scheme, means—

- (a) in the case of a scheme established under a trust, the trustees of the scheme, and
- (b) in any other case, the managers of the scheme.

(4) In this section and sections 25B and 25C above, references to the person responsible for a pension arrangement are—

- (a) in the case of an occupational pension scheme or a personal pension scheme, to the trustees or managers of the scheme,
- (b) in the case of a retirement annuity contract or an annuity falling within paragraph (d) or (e) of the definition of “pension arrangement” above, the provider of the annuity, and
- (c) in the case of an insurance policy falling within paragraph (d) of the definition of that expression, the insurer.]

#### Textual Amendments

**F36** S. 25D inserted (27.6.1996 in relation to the insertion of s. 25D(2)(3)(4) and 1.8.1996 otherwise) by 1995 c. 26, s. 166(1); S.I. 1995/1675, art. 3

**F37** Words in s. 25D(2) substituted (11.11.1999 for certain purposes and otherwise 1.12.2000) by 1999 c. 30, s. 21, Sch. 4 para. 3(1)(3)(a); S.I. 2000/1116, art. 2

*Status: Point in time view as at 01/01/2006.*

**Changes to legislation:** There are currently no known outstanding effects for the Matrimonial Causes Act 1973,  
Cross Heading: Ancillary relief in connection with divorce proceedings, etc.. (See end of Document for details)

- F38** Words in s. 25D(2)(a) substituted (11.11.1999 for certain purposes and otherwise 1.12.2000) by 1999 c. 30, s. 21, **Sch. 4 para. 3(1)(3)(b)**; S.I. 2000/1116, **art. 2**
- F39** S. 25D(2)(ab) inserted (11.11.1999 for certain purposes and otherwise 1.12.2000) by 1999 c. 30, s. 21, **Sch. 4 para. 3(1)(3)(c)**; S.I. 2000/1116, **art. 2**
- F40** S. 25D(2)(ba) inserted (11.11.1999 for certain purposes and otherwise 1.12.2000) by 1999 c. 30, s. 21, **Sch. 4 para. 3(1)(3)(d)**; S.I. 2000/1116, **art. 2**
- F41** S. 25D(2)(c)(d) repealed (11.11.1999 for certain purposes and otherwise 1.12.2000) by 1999 c. 30, ss. 21, 88, **Sch. 4 para. 3(1)(3)(e)**, **Sch. 13 Pt. II**; S.I. 2000/1116, **art. 2**
- F42** S. 25D(2)(e) substituted (11.11.1999 for certain purposes and otherwise 1.12.2000) by 1999 c. 30, s. 21, **Sch. 4 para. 3(1)(3)(f)**; S.I. 2000/1116, **art. 2**
- F43** Words in s. 25D(2) repealed (11.11.1999 for certain purposes and otherwise 1.12.2000) by 1999 c. 30, ss. 21, 88, **Sch. 4 para. 3(1)(3)(g)**, **Sch. 13 Pt. II**; S.I. 2000/1116, **art. 2**
- F44** S. 25D(2A)-(2C) inserted (11.11.1999 for certain purposes and otherwise 1.12.2000) by 1999 c. 30, s. 21, **Sch. 4 para. 3(1)(4)**; S.I. 2000/1116, **art. 2**
- F45** S. 25D(3)(4) substituted (11.11.1999 for certain purposes and otherwise 1.12.2000) by 1999 c. 30, s. 21, **Sch. 4 para. 3(1)(5)**; S.I. 2000/1116, **art. 2**

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

- C5** S. 25D(1) applied (11.11.1999 for certain purposes and otherwise 1.12.2000) by 1984 c. 42, **s. 21(3)** (as amended (1.12.2000) by 1999 c. 30, **s. 22(5)**); S.I. 2000/1116, **art. 2**

**Marginal Citations**

- M1** 1993 c. 48.  
**M2** 1988 c. 1

[<sup>F46</sup>**25E The Pension Protection Fund**

- (1) The matters to which the court is to have regard under section 25(2) include—
- (a) in the case of paragraph (a), any PPF compensation to which a party to the marriage is or is likely to be entitled, and
  - (b) in the case of paragraph (h), any PPF compensation which, by reason of the dissolution or annulment of the marriage, a party to the marriage will lose the chance of acquiring entitlement to,
- and, accordingly, in relation to PPF compensation, section 25(2)(a) shall have effect as if “in the foreseeable future” were omitted.
- (2) Subsection (3) applies in relation to an order under section 23 so far as it includes provision made by virtue of section 25B(4) which—
- (a) imposed requirements on the trustees or managers of an occupational pension scheme for which the Board has assumed responsibility in accordance with Chapter 3 of Part 2 of the Pensions Act 2004 (pension protection) or any provision in force in Northern Ireland corresponding to that Chapter, and
  - (b) was made before the trustees or managers of the scheme received the transfer notice in relation to the scheme.
- (3) The order is to have effect from the time when the trustees or managers of the scheme receive the transfer notice—
- (a) as if, except in prescribed descriptions of case—
    - (i) references in the order to the trustees or managers of the scheme were references to the Board, and

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- (ii) references in the order to any pension or lump sum to which the party with pension rights is or may become entitled under the scheme were references to any PPF compensation to which that person is or may become entitled in respect of the pension or lump sum, and
  - (b) subject to such other modifications as may be prescribed.
- (4) Subsection (5) applies to an order under section 23 if—
- (a) it includes provision made by virtue of section 25B(7) which requires the party with pension rights to exercise his right of commutation under an occupational pension scheme to any extent, and
  - (b) before the requirement is complied with the Board has assumed responsibility for the scheme as mentioned in subsection (2)(a).
- (5) From the time the trustees or managers of the scheme receive the transfer notice, the order is to have effect with such modifications as may be prescribed.
- (6) Regulations may modify section 25C as it applies in relation to an occupational pension scheme at any time when there is an assessment period in relation to the scheme.
- (7) Where the court makes a pension sharing order in respect of a person’s shareable rights under an occupational pension scheme, or an order which includes provision made by virtue of section 25B(4) or (7) in relation to such a scheme, the Board subsequently assuming responsibility for the scheme as mentioned in subsection (2)(a) does not affect—
- (a) the powers of the court under section 31 to vary or discharge the order or to suspend or revive any provision of it, or
  - (b) on an appeal, the powers of the appeal court to affirm, reinstate, set aside or vary the order.
- (8) Regulations may make such consequential modifications of any provision of, or made by virtue of, this Part as appear to the Lord Chancellor necessary or expedient to give effect to the provisions of this section.
- (9) In this section—
- “assessment period” means an assessment period within the meaning of Part 2 of the Pensions Act 2004 (pension protection) (see sections 132 and 159 of that Act) or an equivalent period under any provision in force in Northern Ireland corresponding to that Part;
  - “the Board” means the Board of the Pension Protection Fund;
  - “occupational pension scheme” has the same meaning as in the Pension Schemes Act 1993;
  - “prescribed” means prescribed by regulations;
  - “PPF compensation” means compensation payable under Chapter 3 of Part 2 of the Pensions Act 2004 (pension protection) or any provision in force in Northern Ireland corresponding to that Chapter;
  - “regulations” means regulations made by the Lord Chancellor;
  - “shareable rights” are rights in relation to which pension sharing is available under Chapter 1 of Part 4 of the Welfare Reform and Pensions Act 1999 or any provision in force in Northern Ireland corresponding to that Chapter;
  - “transfer notice” has the same meaning as in section 160 of the Pensions Act 2004 or any corresponding provision in force in Northern Ireland.

*Status: Point in time view as at 01/01/2006.*

**Changes to legislation:** There are currently no known outstanding effects for the Matrimonial Causes Act 1973,  
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- (10) Any power to make regulations under this section is exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

**F46** S. 25E inserted (1.1.2006) by [Pensions Act 2004 \(c. 35\)](#), ss. 319(1), 322, [Sch. 12 para. 3](#); [S.I. 2005/3331](#), [art. 2\(3\)](#), [Sch. Pt. 3](#) (subject to [art. 3](#))

## 26 Commencement of proceedings for ancillary relief, etc.

- (1) Where a petition for divorce, nullity of marriage or judicial separation has been presented, then, subject to subsection (2) below, proceedings for maintenance pending suit under section 22 above, for a financial provision order under section 23 above, or for a property adjustment order may be begun, subject to and in accordance with rules of court, at any time after the presentation of the petition.
- (2) Rules of court may provide, in such cases as may be prescribed by the rules—
- (a) that applications for any such relief as is mentioned in subsection (1) above shall be made in the petition or answer; and
  - (b) that applications for any such relief which are not so made, or are not made until after the expiration of such period following the presentation of the petition or filing of the answer as may be so prescribed, shall be made only with the leave of the court.



**Status:**

Point in time view as at 01/01/2006.

**Changes to legislation:**

There are currently no known outstanding effects for the Matrimonial Causes Act 1973, Cross Heading: Ancillary relief in connection with divorce proceedings, etc..