



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

- (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) being the husband, has wilfully neglected—
 - (i) to provide reasonable maintenance for the applicant, or
 - (ii) to provide, or to make a proper contribution towards, reasonable maintenance for any child of the family to whom this section applies;
 - (b) being the wife, has wilfully neglected to provide, or to make a proper contribution towards, reasonable maintenance—
 - (i) for the applicant in a case where, by reason of the impairment of the applicant's earning capacity through age, illness or disability of mind or body, and having regard to any resources of the applicant and the respondent respectively which are, or should properly be made, available for the purpose, it is reasonable in all the circumstances to expect the respondent so to provide or contribute, or
 - (ii) for any child of the family to whom this section applies.
- (2) The court shall not entertain an application under this section unless it would have jurisdiction to entertain proceedings by the applicant for judicial separation.
- (3) This section applies to any child of the family for whose maintenance it is reasonable in all the circumstances to expect the respondent to provide or towards whose

Status: This is the original version (as it was originally enacted).

maintenance it is reasonable in all the circumstances to expect the respondent to make a proper contribution.

- (4) Where the child of the family to whom the application under this section relates is not the child of the respondent, then, in deciding—
- (a) whether the respondent has been guilty of wilful neglect to provide, or to make a proper contribution towards, reasonable maintenance for the child, and
 - (b) what order, if any, to make under this section in favour of the child,
- the court shall have regard to the matters mentioned in section 25(3) above.
- (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 such one or more of the following orders as it thinks just, 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;
 - (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.
- (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.
- (8) For the purpose of proceedings on an application under this section adultery which has been condoned shall not be capable of being revived, and any presumption of condonation which arises from the continuance or resumption of marital intercourse may be rebutted by evidence sufficient to negative the necessary intent.