



Matrimonial Causes Act 1973

1973 CHAPTER 18

PART II

FINANCIAL RELIEF FOR PARTIES TO MARRIAGE AND CHILDREN OF FAMILY

Variation, discharge and enforcement of certain orders, etc.

31 Variation, discharge, etc., of certain orders for financial relief.

- (1) Where the court has made an order to which this section applies, then, subject to the provisions of this section [^{F1}and of section 28(1A) above], the court shall have power to vary or discharge the order or to suspend any provision thereof temporarily and to revive the operation of any provision so suspended.
- (2) This section applies to the following orders, that is to say—
- (a) any order for maintenance pending suit and any interim order for maintenance;
 - (b) any periodical payments order;
 - (c) any secured periodical payments order;
 - (d) any order made by virtue of section 23(3)(c) or 27(7)(b) above (provision for payment of a lump sum by instalments);
 - [^{F2}(dd) any deferred order made by virtue of section 23(1)(c) (lump sums) which includes provision made by virtue of—
 - (i) section 25B(4), or
 - (ii) section 25C,(provision in respect of pension rights)]
 - (e) any order for a settlement of property under section 24(1)(b) or for a variation of settlement under section 24(1)(c) or (d) above, being an order made on or after the grant of a decree of judicial separation.
 - [^{F3}(f) any order made under section 24A(1) above for the sale of property]

Status: Point in time view as at 01/09/1997. This version of this provision has been superseded.

Changes to legislation: Matrimonial Causes Act 1973, Section 31 is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- [^{F4}(2A) Where the court has made an order referred to in subsection (2)(a), (b) or (c) above, then, subject to the provisions of this section, the court shall have power to remit the payment of any arrears due under the order or of any part thereof.]
- [^{F5}(2B) Where the court has made an order referred to in subsection (2)(dd)(ii) above, this section shall cease to apply to the order on the death of either of the parties to the marriage]
- (3) The powers exercisable by the court under this section in relation to an order shall be exercisable also in relation to any instrument executed in pursuance of the order.
- (4) The court shall not exercise the powers conferred by this section in relation to an order for a settlement under section 24(1)(b) or for a variation of settlement under section 24(1)(c) or (d) above except on an application made in proceedings—
- (a) for the rescission of the decree of judicial separation by reference to which the order was made, or
 - (b) for the dissolution of the marriage in question.
- (5) No property adjustment order shall be made on an application for the variation of a periodical payments or secured periodical payments order made (whether in favour of a party to a marriage or in favour of a child of the family) under section 23 above, and no order for the payment of a lump sum shall be made on an application for the variation of a periodical payments or secured periodical payments order in favour of a party to a marriage (whether made under section 23 or under section 27 above).
- (6) Where the person liable to make payments under a secured periodical payments order has died, an application under this section relating to that order [^{F6}(and to any order made under section 24A(1) above which requires the proceeds of sale of property to be used for securing those payments) may be made by the person entitled to payments under the periodical payments order.] or by the personal representatives of the deceased person, but no such application shall, except with the permission of the court, be made after the end of the period of six months from the date on which representation in regard to the estate of that person is first taken out.
- [^{F7}(7) In exercising the powers conferred by this section the court shall 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, and the circumstances of the case shall include any change in any of the matters to which the court was required to have regard when making the order to which the application relates, and—
- (a) in the case of a periodical payments or secured periodical payments order made on or after the grant of a decree of divorce or nullity of marriage, the court shall consider whether in all the circumstances and after having regard to any such change it would be appropriate to vary the order so that payments under the order are required to be made or secured only for such further period as will in the opinion of the court be sufficient to enable the party in whose favour the order was made to adjust without undue hardship to the termination of those payments;
 - (b) in a case where the party against whom the order was made has died, the circumstances of the case shall also include the changed circumstances resulting from his or her death.]
- (8) The personal representatives of a deceased person against whom a secured periodical payments order was made shall not be liable for having distributed any part of the

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estate of the deceased after the expiration of the period of six months referred to in subsection (6) above on the ground that they ought to have taken into account the possibility that the court might permit an application under this section to be made after that period by the person entitled to payments under the order; but this subsection shall not prejudice any power to recover any part of the estate so distributed arising by virtue of the making of an order in pursuance of this section.

(9) In considering for the purposes of subsection (6) above the question when representation was first taken out, a grant limited to settled land or to trust property shall be left out of account and a grant limited to real estate or to personal estate shall be left out of account unless a grant limited to the remainder of the estate has previously been made or is made at the same time.

[^{F8}(10) Where the court, in exercise of its powers under this section, decides to vary or discharge a periodical payments or secured periodical payments order, then, subject to section 28(1) and (2) above, the court shall have power to direct that the variation or discharge shall not take effect until the expiration of such period as may be specified in the order.]

[^{F9}(11) Where—

- (a) a periodical payments or secured periodical payments order in favour of more than one child (“the order”) is in force;
- (b) the order requires payments specified in it to be made to or for the benefit of more than one child without apportioning those payments between them;
- (c) a maintenance assessment (“the assessment”) is made with respect to one or more, but not all, of the children with respect to whom those payments are to be made; and
- (d) an application is made, before the end of the period of 6 months beginning with the date on which the assessment was made, for the variation or discharge of the order, the court may, in exercise of its powers under this section to vary or discharge the order, direct that the variation or discharge shall take effect from the date on which the assessment took effect or any later date.

(12) Where—

- (a) an order (“the child order”) of a kind prescribed for the purposes of section 10(1) of the Child Support Act 1991 is affected by a maintenance assessment;
- (b) on the date on which the child order became so affected there was in force a periodical payments or secured periodical payments order (“the spousal order”) in favour of a party to a marriage having the care of the child in whose favour the child order was made; and
- (c) an application is made, before the end of the period of 6 months beginning with the date on which the maintenance assessment was made, for the spousal order to be varied or discharged,

the court may, in exercise of its powers under this section to vary or discharge the spousal order, direct that the variation or discharge shall take effect from the date on which the child order became so affected or any later date.

(13) For the purposes of subsection (12) above, an order is affected if it ceases to have effect or is modified by or under section 10 of the Child Support Act 1991.

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- (14) Subsections (11) and (12) above are without prejudice to any other power of the court to direct that the variation of discharge of an order under this section shall take effect from a date earlier than that on which the order for variation or discharge was made.]

Textual Amendments

- F1** Words inserted by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), **ss. 6(2)**, 48(2)
F2 [S. 31\(2\)\(dd\)](#) inserted (1.8.1996) by 1995 c. 26, **s. 166(3)(a)**; S.I. 1996/1675, **art. 3(b)**
F3 [S. 31\(2\)\(f\)](#) inserted by [Matrimonial Homes and Property Act 1981 \(c. 24, SIF 49:5\)](#), **s. 8(2)(a)**
F4 [S. 31\(2A\)](#) inserted by [Administration of Justice Act 1982 \(c. 53, SIF 37\)](#), ss, 51, 77(1)
F5 [S. 31\(2B\)](#) inserted (1.8.1996) by 1995 c. 26, **s. 166(3)(b)**; S.I. 1996/1675, **art. 3(b)**
F6 Words substituted by [Matrimonial Homes and Property Act 1981 \(c. 24, SIF 49:5\)](#), **s. 8(2)(b)**
F7 [S. 31\(7\)](#) substituted by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), **ss. 6(3)**, 48(2)
F8 [S. 31\(10\)](#) inserted by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), **ss. 6(4)**, 48(2)
F9 [S. 31\(11\)–\(14\)](#) inserted (5.4.1993) by S.I. 1993/623, art. 2, **Sch. 1 para. 3**

Modifications etc. (not altering text)

- C1** [S. 31\(1\)](#) extended by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), **ss. 21(f)**, 48(2)
C2 [S. 31\(2\)\(a\)–\(d\)](#) extended by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), **ss. 21(f)**, 48(2)
C3 [S. 31\(2\)\(f\)](#) extended by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), **ss. 21(f)**, 48(2)
C4 [S. 31\(3\)\(5\)](#) extended by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), **ss. 21(f)**, 48(2)
C5 [S. 31\(6\)](#) amended by [Forfeiture Act 1982 \(c. 34, SIF 116:1, 2\)](#), **ss. 3(2)(b)**, 7(3)
C6 [S. 31\(6\)](#) extended by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), **ss. 21(f)**, 48(2)
C7 [S. 31\(6\)](#) amended by [Inheritance \(Provisions for Family and Dependents\) Act 1975 \(c. 63\)](#), **s. 18**
C8 [S. 31\(7\)–\(10\)](#) extended by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), **ss. 21(f)**, 48(2)

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