



Matrimonial Causes Act 1973

1973 CHAPTER 18

PART II

FINANCIAL RELIEF FOR PARTIES TO MARRIAGE AND CHILDREN OF FAMILY

Maintenance agreements

35 Alteration of agreements by court during lives of parties.

- (1) Where a maintenance agreement is for the time being subsisting and each of the parties to the agreement is for the time being either domiciled or resident in England and Wales, then ^{F1}... either party may apply to the court ^{F2}... for an order under this section.

^{F3}(1A)

- (2) If the court ^{F4}... is satisfied either—
- (a) that by reason of a change in the circumstances in the light of which any financial arrangements contained in the agreement were made or, as the case may be, financial arrangements were omitted from it (including a change foreseen by the parties when making the agreement), the agreement should be altered so as to make different, or, as the case may be, so as to contain, financial arrangements, or
 - (b) that the agreement does not contain proper financial arrangements with respect to any child of the family,

then subject to [^{F5}subsections] (4) and (5) below, [^{F6}the court] may by order make such alterations in the agreement—

- (i) by varying or revoking any financial arrangements contained in it, or
- (ii) by inserting in it financial arrangements for the benefit of one of the parties to the agreement or of a child of the family,

as may appear to [^{F6}the court] to be just having regard to all the circumstances, including, if relevant, the matters mentioned in [^{F7}section 25(4)] above; and the agreement shall have effect thereafter as if any alteration made by the order had been made by agreement between the parties and for valuable consideration.

Changes to legislation: There are currently no known outstanding effects for the Matrimonial Causes Act 1973, Section 35. (See end of Document for details)

^{F8}(3)

- (4) Where [^{F9}the court] decides to alter, by order under this section, an agreement by inserting provision for the making or securing by one of the parties to the agreement of periodical payments for the maintenance of the other party or by increasing the rate of the periodical payments which the agreement provides shall be made by one of the parties for the maintenance of the other, the term for which the payments or, as the case may be, the additional payments attributable to the increase are to be made under the agreement as altered by the order shall be such term as the court may specify, subject to the following limits, that is to say—
- (a) where the payments will not be secured, the term shall be so defined as not to extend beyond the death of either of the parties to the agreement or the remarriage of [^{F10}, or formation of a civil partnership by,] the party to whom the payments are to be made;
 - (b) where the payments will be secured, the term shall be so defined as not to extend beyond the death or remarriage of [^{F10}, or formation of a civil partnership by,] that party.
- (5) Where [^{F9}the court] decides to alter, by order under this section, an agreement by inserting provision for the making or securing by one of the parties to the agreement of periodical payments for the maintenance of a child of the family or by increasing the rate of the periodical payments which the agreement provides shall be made or secured by one of the parties for the maintenance of such a child, then, in deciding the term for which under the agreement as altered by the order the payments, or as the case may be, the additional payments attributable to the increase are to be made or secured for the benefit of the child, the court shall apply the provisions of section 29(2) and (3) above as to age limits as if the order in question were a periodical payments or secured periodical payments order in favour of the child.
- (6) For the avoidance of doubt it is hereby declared that nothing in this section or in section 34 above affects any power of a court before which any proceedings between the parties to a maintenance agreement are brought under any other enactment (including a provision of this Act) to make an order containing financial arrangements or any right of either party to apply for such an order in such proceedings.

Textual Amendments

- F1** Words in s. 35(1) omitted (31.12.2020) by virtue of [The Jurisdiction and Judgments \(Family\) \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/519), reg. 1(1), **Sch. para. 6(3)(a)** (with reg. 8) (as amended by [S.I. 2020/1574](#), regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in s. 35(1) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013](#) (c. 22), s. 61(3), **Sch. 11 para. 62(2)**; [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F3** S. 35(1A) omitted (31.12.2020) by virtue of [The Jurisdiction and Judgments \(Family\) \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/519), reg. 1(1), **Sch. para. 6(3)(b)** (with reg. 8) (as amended by [S.I. 2020/1574](#), regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in s. 35(2) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013](#) (c. 22), s. 61(3), **Sch. 11 para. 62(3)(a)**; [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F5** Word in s. 35(2) substituted (22.4.2014) by [Crime and Courts Act 2013](#) (c. 22), s. 61(3), **Sch. 11 para. 62(3)(b)**; [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

Changes to legislation: There are currently no known outstanding effects for the Matrimonial Causes Act 1973, Section 35. (See end of Document for details)

- F6** Words in s. 35(2) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 62\(3\)\(c\)](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F7** Words substituted by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), ss. 46(1), 48(3), [Sch. 1 para. 13\(a\)](#)
- F8** S. 35(3) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 62\(4\)](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F9** Words in s. 35(4)(5) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 62\(5\)](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F10** Words in s. 35(4)(a)(b) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 261(1), 263, [Sch. 27 para. 44](#); [S.I. 2005/3175](#), [art. 2\(2\)](#) (subject to art. 2(3)-(5))

Changes to legislation:

There are currently no known outstanding effects for the Matrimonial Causes Act 1973, Section 35.