



# Matrimonial Causes Act 1973

## 1973 CHAPTER 18

### PART II

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

##### *Miscellaneous and supplemental*

#### **40 Payments, etc., under order made in favour of person suffering from mental disorder.**

[<sup>F1</sup>(1)] Where the court makes an order under this Part of this Act requiring payments (including a lump sum payment) to be made, or property to be transferred, to a party to a marriage and the court is satisfied that the person in whose favour the order is made [<sup>F2</sup>(“P”) lacks capacity (within the meaning of the Mental Capacity Act 2005) in relation to the provisions of the order] then, subject to any order, direction or authority made or given in relation to [<sup>F3</sup>P under that Act], the court may order the payments to be made, or as the case may be, the property to be transferred, to [<sup>F4</sup> such person (“D”) as it may direct].

[<sup>F5</sup>(2) In carrying out any functions of his in relation to an order made under subsection (1), D must act in P's best interests (within the meaning of that Act).]

#### **Textual Amendments**

- F1** S. 40 renumbered (1.10.2007) as s. 40(1) by [Mental Capacity Act 2005 \(c. 9\)](#), ss. 67(1), 68, [Sch. 6 para. 19](#) (with ss. 27-29, 62); S.I. 2007/1897, [art. 2\(1\)\(d\)](#)
- F2** Words in s. 40(1) substituted (1.10.2007) by [Mental Capacity Act 2005 \(c. 9\)](#), ss. 67(1), 68, [Sch. 6 para. 19\(a\)](#) (with ss. 27-29, 62); S.I. 2007/1897, [art. 2\(1\)\(d\)](#)
- F3** Words in s. 40(1) substituted (1.10.2007) by [Mental Capacity Act 2005 \(c. 9\)](#), ss. 67(1), 68, [Sch. 6 para. 19\(b\)](#) (with ss. 27-29, 62); S.I. 2007/1897, [art. 2\(1\)\(d\)](#)
- F4** Words in s. 40(1) substituted (1.10.2007) by [Mental Capacity Act 2005 \(c. 9\)](#), ss. 67(1), 68, [Sch. 6 para. 19\(c\)](#) (with ss. 27-29, 62); S.I. 2007/1897, [art. 2\(1\)\(d\)](#)
- F5** S. 40(2) inserted (1.10.2007) by [Mental Capacity Act 2005 \(c. 9\)](#), ss. 67(1), 68, [Sch. 6 para. 19\(d\)](#) (with ss. 27-29, 62); S.I. 2007/1897, [art. 2\(1\)\(d\)](#)

**Changes to legislation:** There are currently no known outstanding effects for the Matrimonial Causes Act 1973, Section 40. (See end of Document for details)

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

C1 S. 40 extended by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), **ss. 21(k)**, 48(2)

**Changes to legislation:**

There are currently no known outstanding effects for the Matrimonial Causes Act 1973, Section 40.