



Matrimonial and Family Proceedings Act 1984

1984 CHAPTER 42

PART III

FINANCIAL RELIEF IN ENGLAND AND WALES AFTER OVERSEAS DIVORCE ETC.

Applications for financial relief

12 Applications for financial relief after overseas divorce etc.

- (1) Where—
- (a) a marriage has been dissolved or annulled, or the parties to a marriage have been legally separated, by means of judicial or other proceedings in an overseas country, and
 - (b) the divorce, annulment or legal separation is entitled to be recognised as valid in England and Wales,
- either party to the marriage may apply to the court in the manner prescribed by rules of court for an order for financial relief under this Part of this Act.
- (2) If after a marriage has been dissolved or annulled in an overseas country one of the parties to the marriage remarries that party shall not be entitled to make an application in relation to that marriage.
- (3) For the avoidance of doubt it is hereby declared that the reference in subsection (2) above to remarriage includes a reference to a marriage which is by law void or voidable.
- (4) In this Part of this Act except sections 19, 23, and 24 "order for financial relief" means an order under section 17 or 22 below of a description referred to in that section.

13 Leave of the court required for applications for financial relief

- (1) No application for an order for financial relief shall be made under this Part of this Act unless the leave of the court has been obtained in accordance with rules of court; and the court shall not grant leave unless it considers that there is substantial ground for the making of an application for such an order.
- (2) The court may grant leave under this section notwithstanding that an order has been made by a court in a country outside England and Wales requiring the other party to the marriage to make any payment or transfer any property to the applicant or a child of the family.
- (3) Leave under this section may be granted subject to such conditions as the court thinks fit.

14 Interim orders for maintenance

- (1) Where leave is granted under section 13 above for the making of an application for an order for financial relief and it appears to the court that the applicant or any child of the family is in immediate need of financial assistance, the court may make an interim order for maintenance, that is to say, an order requiring the other party to the marriage to make to the applicant or to the child such periodical payments, and for such term, being a term beginning not earlier than the date of the grant of leave and ending with the date of the determination of the application for an order for financial relief, as the court thinks reasonable.
- (2) If it appears to the court that the court has jurisdiction to entertain the application for an order for financial relief by reason only of paragraph (c) of section 15(1) below the court shall not make an interim order under this section.
- (3) An interim order under subsection (1) above may be made subject to such conditions as the court thinks fit.

15 Jurisdiction of the court

- (1) Subject to subsection (2) below, the court shall have jurisdiction to entertain an application for an order for financial relief if any of the following jurisdictional requirements are satisfied, that is to say—
 - (a) either of the parties to the marriage was domiciled in England and Wales on the date of the application for leave under section 13 above or was so domiciled on the date on which the divorce, annulment or legal separation obtained in the overseas country took effect in that country; or
 - (b) either of the parties to the marriage was habitually resident in England and Wales throughout the period of one year ending with the date of the application for leave or was so resident throughout the period of one year ending with the date on which the divorce, annulment or legal separation obtained in the overseas country took effect in that country ; or
 - (c) either or both of the parties to the marriage had at the date of the application for leave a beneficial interest in possession in a dwelling-house situated in England or Wales which was at some time during the marriage a matrimonial home of the parties to the marriage.
- (2) Where the jurisdiction of the court to entertain proceedings under this Part of this Act would fall to be determined by reference to the jurisdictional requirements imposed

by virtue of Part I of the Civil Jurisdiction and Judgments Act 1982 (implementation of certain European conventions) then—

- (a) satisfaction of the requirements of subsection (1) above shall not obviate the need to satisfy the requirements imposed by virtue of Part I of that Act; and
- (b) satisfaction of the requirements imposed by virtue of Part I of that Act shall obviate the need to satisfy the requirements of subsection (1) above ;

and the court shall entertain or not entertain the proceedings accordingly.

16 Duty of the court to consider whether England and Wales is appropriate venue for application

- (1) Before making an order for financial relief the court shall consider whether in all the circumstances of the case it would be appropriate for such an order to be made by a court in England and Wales, and if the court is not satisfied that it would be appropriate, the court shall dismiss the application.
- (2) The court shall in particular have regard to the following matters—
 - (a) the connection which the parties to the marriage have with England and Wales ;
 - (b) the connection which those parties have with the country in which the marriage was dissolved or annulled or in which they were legally separated ;
 - (c) the connection which those parties have with any other country outside England and Wales ;
 - (d) any financial benefit which the applicant or a child of the family has received, or is likely to receive, in consequence of the divorce, annulment or legal separation, by virtue of any agreement or the operation of the law of a country outside England and Wales;
 - (e) in a case where an order has been made by a court in a country outside England and Wales requiring the other party to the marriage to make any payment or transfer any property for the benefit of the applicant or a child of the family, the financial relief given by the order and the extent to which the order has been complied with or is likely to be complied with;
 - (f) any right which the applicant has, or has had, to apply for financial relief from the other party to the marriage under the law of any country outside England and Wales and if the applicant has omitted to exercise that right the reason for that omission ;
 - (g) the availability in England and Wales of any property in respect of which an order under this Part of this Act in favour of the applicant could be made ;
 - (h) the extent to which any order made under this Part of this Act is likely to be enforceable ;
 - (i) the length of time which has elapsed since the date of the divorce, annulment or legal separation.