



Matrimonial and Family Proceedings Act 1984

1984 CHAPTER 42

PART III

FINANCIAL RELIEF IN ENGLAND AND WALES AFTER OVERSEAS DIVORCE ETC.

Orders for financial provision and property adjustment

17 Orders for financial provision and property adjustment.

[^{F1}(1) Subject to section 20 below, on an application by a party to a marriage for an order for financial relief under this section, the court may—

(a) make any one or more of the orders which it could make under Part II of the 1973 Act if a decree of divorce, a decree of nullity of marriage or a decree of judicial separation in respect of the marriage had been granted in England and Wales, that is to say—

(i) any order mentioned in section 23(1) of the 1973 Act (financial provision orders); and

(ii) any order mentioned in section 24(1) of that Act (property adjustment orders); and

(b) if the marriage has been dissolved or annulled, make one or more orders each of which would, within the meaning of that Part of that Act, be a pension sharing order in relation to the marriage.

[^{F2}(c) if the marriage has been dissolved or annulled, make an order which would, within the meaning of that Part of that Act, be a pension compensation sharing order in relation to the marriage.]]

(2) Subject to section 20 below, where the court makes a secured periodical payments order, an order for the payment of a lump sum or a property adjustment order under subsection (1) above, then, on making that order or at any time thereafter, the court may make any order mentioned in section 24A(1) of the 1973 Act (orders for sale of

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property) which the court would have power to make if the order under subsection (1) above had been made under Part II of the 1973 Act.

Textual Amendments

- F1** S. 17(1) substituted (1.12.2000) by 1999 c. 30, s. 84, **Sch. 12 Pt. 1 para. 3**; S.I. 2000/1116, **art. 2(b)**
F2 S. 17(1)(c) added (6.4.2011) by Pensions Act 2008 (c. 30), s. 149(1), **Sch. 6 para. 11**; S.I. 2011/664, **art. 2(3), Sch. Pt. 2**

18 Matters to which the court is to have regard in exercising its powers under s. 17.

- (1) In deciding whether to exercise its powers under section 17 above and, if so, in what manner the court shall act in accordance with this section.
- (2) 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.
- (3) As regards the exercise of those powers in relation to a party to the marriage, the court shall in particular have regard to the matters mentioned in section 25(2)(a) to (h) of the 1973 Act and shall be under duties corresponding with those imposed by section 25A(1) and (2) of the 1973 Act where it decides to exercise under section 17 above powers corresponding with the powers referred to in those subsections.

[^{F3}(3A) The matters to which the court is to have regard under subsection (3) above—

- (a) so far as relating to paragraph (a) of section 25(2) of the 1973 Act, include any benefits under a pension arrangement which a party to the marriage has or is likely to have [^{F4} and any PPF compensation to which a party to the marriage is or is likely to be entitled,] (whether or not in the foreseeable future), and
- (b) so far as relating to paragraph (h) of that provision, include [^{F5}—
 - (i) any benefits under a pension arrangement which, by reason of the dissolution or annulment of the marriage, a party to the marriage will lose the chance of acquiring [^{F6}, and
 - (ii) any PPF compensation which, by reason of the dissolution or annulment of the marriage, a party to the marriage will lose the chance of acquiring entitlement to]]
- (4) As regards the exercise of those powers in relation to a child of the family, the court shall in particular have regard to the matters mentioned in section 25(3)(a) to (e) of the 1973 Act.
- (5) As regards the exercise of those powers against a party to the marriage in favour of a child of the family who is not the child of that party, the court shall also have regard to the matters mentioned in section 25(4)(a) to (c) of the 1973 Act.
- (6) Where an order has been made by a court outside England and Wales for the making of payments or the transfer of property by a party to the marriage, the court in considering in accordance with this section the financial resources of the other party to the marriage or a child of the family shall have regard to the extent to which that order has been complied with or is likely to be complied with.

[^{F7}(7) In this section—

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- (a) “pension arrangement” has the meaning given by section 25D(3) of the 1973 Act, and
- (b) references to benefits under a pension arrangement include any benefits by way of pension, whether under a pension arrangement or not^[F8], and
- [F9](c) “PPF compensation” means compensation payable under—
 - (i) Chapter 3 of Part 2 of the Pensions Act 2004 (pension protection) or any regulations or order made under it,
 - (ii) Chapter 1 of Part 3 of the Pensions Act 2008 (pension compensation sharing) or any regulations or order made under it, or
 - (iii) any provision corresponding to the provisions mentioned in subparagraph (i) or (ii) in force in Northern Ireland.]]]

Textual Amendments

- F3 S. 18(3A) inserted (1.12.2000) by 1999 c. 30, s. 22(1)(2); S.I. 2000/1116, art. 2(a)
- F4 Words in s. 18(3A)(a) inserted (1.1.2006) by Pensions Act 2004 (c. 35), s. 322(1), Sch. 12 para. 4(2)(a)(i); S.I. 2005/3331, art. 2(3), Sch. Pt. 3
- F5 Word in s. 18(3A)(b) inserted (1.1.2006) by Pensions Act 2004 (c. 35), s. 322(1), Sch. 12 para. 4(2)(a)(ii); S.I. 2005/3331, art. 2(3), Sch. Pt. 3
- F6 S. 18(3A)(b)(ii) and preceding word inserted (1.1.2006) by Pensions Act 2004 (c. 35), s. 322(1), Sch. 12 para. 4(2)(a)(iii); S.I. 2005/3331, art. 2(3), Sch. Pt. 3
- F7 S. 18(7) added (1.12.2000) by 1999 c. 30, s. 22(1)(3); S.I. 2000/1116, art. 2(a)
- F8 S. 18(7)(c) and preceding word inserted (1.1.2006) by Pensions Act 2004 (c. 35), s. 322(1), Sch. 12 para. 4(2)(b); S.I. 2005/3331, art. 2(3), Sch. Pt. 3
- F9 S. 18(7)(c) substituted (6.4.2011) by Pensions Act 2008 (c. 30), s. 149(1), Sch. 6 para. 12; S.I. 2011/664, art. 2(3), Sch. Pt. 2

19 Consent orders for financial provision or property adjustment.

- (1) Notwithstanding anything in section 18 above, on an application for a consent order for financial relief the court may, unless it has reason to think that there are other circumstances into which it ought to inquire, make an order in the terms agreed on the basis only of the prescribed information furnished with the application.
- (2) Subsection (1) above applies to an application for a consent order varying or discharging an order for financial relief as it applies to an application for an order for financial relief.
- (3) In this section—
 - “consent order”, in relation to an application for an order, means an order in the terms applied for to which the respondent agrees;
 - “order for financial relief” means an order under section 17 above; and
 - “prescribed” means prescribed by rules of court.

20 Restriction of powers of court where jurisdiction depends on matrimonial home in England or Wales.

- (1) Where the court has jurisdiction to entertain an application for an order for financial relief by reason only of the situation in England or Wales of a dwelling-house which was a matrimonial home of the parties, the court may make under section 17 above any one or more of the following orders (but no other)—

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- (a) an order that either party to the marriage shall pay to the other such lump sum as may be specified in the order;
 - (b) an order that a party to the marriage shall pay to such person as may be so specified for the benefit of a child of the family, or to such a child, such lump sum as may be so specified;
 - (c) an order that a party to the marriage shall transfer to the other party, to any child of the family or to such person as may be so specified for the benefit of such a child, the interest of the first-mentioned party in the dwelling-house, or such part of that interest as may be so specified;
 - (d) an order that a settlement of the interest of a party to the marriage in the dwelling-house, or such part of that interest as may be so specified, be made to the satisfaction of the court for the benefit of the other party to the marriage and of the children of the family or either or any of them;
 - (e) an order varying for the benefit of the parties to the marriage and of the children of the family or either or any of them any ante-nuptial or post-nuptial settlement (including such a settlement made by will or codicil) made on the parties to the marriage so far as that settlement relates to an interest in the dwelling-house;
 - (f) an order extinguishing or reducing the interest of either of the parties to the marriage under any such settlement so far as that interest is an interest in the dwelling-house;
 - (g) an order for the sale of the interest of a party to the marriage in the dwelling-house.
- (2) Where, in the circumstances mentioned in subsection (1) above, the court makes an order for the payment of a lump sum by a party to the marriage, the amount of the lump sum shall not exceed, or where more than one such order is made the total amount of the lump sums shall not exceed in aggregate, the following amount, that is to say—
- (a) if the interest of that party in the dwelling-house is sold in pursuance of an order made under subsection (1)(g) above, the amount of the proceeds of the sale of that interest after deducting therefrom any costs incurred in the sale thereof;
 - (b) if the interest of that party is not so sold, the amount which in the opinion of the court represents the value of that interest.
- (3) Where the interest of a party to the marriage in the dwelling-house is held jointly or in common with any other person or persons—
- (a) the reference in subsection (1)(g) above to the interest of a party to the marriage shall be construed as including a reference to the interest of that other person, or the interest of those other persons, in the dwelling-house, and
 - (b) the reference in subsection (2)(a) above to the amount of the proceeds of a sale ordered under subsection (1)(g) above shall be construed as a reference to that part of those proceeds which is attributable to the interest of that party to the marriage in the dwelling-house.

21 Application to orders under ss. 14 and 17 of certain provisions of Part II of Matrimonial Causes Act 1973.

[^{F10}(1)] The following provisions of Part II of the 1973 Act (financial relief for parties to marriage and children of family) shall apply in relation to an order ^{F11}. . . under

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section 14 or 17 above as they apply in relation to a like order ^{F11}. . . under that Part of that Act, that is to say—

- (a) section 23(3) (provisions as to lump sums);
 - (b) section 24A(2), (4), (5) and (6) (provisions as to orders for sale);
 - [^{F12}(ba) section 24B(3) to (5) (provisions about pension sharing orders in relation to divorce and nullity);
 - (bb) section 24C (duty to stay pension sharing orders);
 - (bc) section 24D (apportionment of pension sharing charges);]
 - [^{F13}(bca) section 24E(3) to (10) (provisions about pension compensation orders in relation to divorce and nullity);
 - (bcb) section 24F (duty to stay pension compensation sharing orders);
 - (bcc) section 24G (apportionment of pension compensation sharing charges);]
 - [^{F14}(bd) section 25B(3) to (7B) (power, by financial provision order, to attach payments under a pension arrangement, or to require the exercise of a right of commutation under such an arrangement);
 - (be) section 25C (extension of lump sum powers in relation to death benefits under a pension arrangement);]
 - [^{F15}(bf) section 25E(2) to (10) (the Pension Protection Fund);]
 - [^{F16}(bg) section 25F (power, by financial provision order, to attach pension compensation payments, or to require the exercise of a right of commutation of pension compensation);]
 - (c) section 28(1) and (2) (duration of continuing financial provision orders in favour of party to marriage);
 - (d) section 29 (duration of continuing financial provision orders in favour of children, and age limit on making certain orders in their favour);
 - (e) section 30 (direction for settlement of instrument for securing payments or effecting property adjustment), except paragraph (b);
 - (f) section 31 (variation, discharge etc. of certain orders for financial relief), except subsection (2)(e) and subsection (4);
 - (g) section 32 (payment of certain arrears unenforceable without the leave of the court);
 - (h) section 33 (orders for repayment of sums paid under certain orders);
 - (i) section 38 (orders for repayment of sums paid after cessation of order by reason of remarriage);
 - (j) section 39 (settlements etc. made in compliance with a property adjustment order may be avoided on bankruptcy of settlor); and
 - (k) section 40 (payments etc. under order made in favour of person suffering from mental disorder).
 - [^{F17}(l) section 40A (appeals relating to pension sharing orders which have taken effect).]
 - [^{F18}(m) section 40B (appeals relating to pension compensation sharing orders which have taken effect).]
- [^{F19}(2) Subsection (1)(bd)[^{F20}, (be) and (bg)] above shall not apply where the court has jurisdiction to entertain an application for an order for financial relief by reason only of the situation in England or Wales of a dwelling-house which was a matrimonial home of the parties.
- (3) Section 25D(1) of the 1973 Act (effect of transfers on orders relating to rights under a pension arrangement) shall apply in relation to an order made under section 17 above

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by virtue of subsection (1)(bd) or (be) above as it applies in relation to an order made under section 23 of that Act by virtue of section 25B or 25C of the 1973 Act.

- (4) The Lord Chancellor may by regulations make for the purposes of this Part of this Act provision corresponding to any provision which may be made by him under subsections (2) to (2B) of section 25D of the 1973 Act [^{F21}or under subsections (1) to (3) of section 25G of that Act].
- (5) Power to make regulations under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

- F10** S. 21 “(1)” inserted (1.12.2000) by 1999 c. 30, s. 22(4); S.I. 2000/1116, art. 2(a)
- F11** Words in s. 21 repealed (1.12.2000) by 1999 c. 30, ss. 84(1), 88, Sch. 12 Pt. I para. 4(a), Sch. 13 Pt. II; S.I. 2000/1116, art. 2(b)(d)(g)
- F12** S. 21(ba)(bb)(bc) inserted (1.12.2000) by 1999 c. 30, s. 84(1), Sch. 12 Pt. I para. 4(b); S.I. 2000/1116, art. 2(b)
- F13** S. 21(1)(bca)-(bcc) inserted (6.4.2011) by Pensions Act 2008 (c. 30), s. 149(1), Sch. 6 para. 13(2); S.I. 2011/664, art. 2(3), Sch. Pt. 2
- F14** S. 21(1)(bd)(be) inserted (1.12.2000) by 1999 c. 30, s. 22(4); S.I. 2000/1116, art. 2(a)
- F15** S. 21(1)(bf) inserted (1.1.2006) by Pensions Act 2004 (c. 35), s. 322(1), Sch. 12 para. 4(3); S.I. 2005/3331, art. 2(3), Sch. Pt. 3
- F16** S. 21(1)(bg) inserted (6.4.2011) by Pensions Act 2008 (c. 30), s. 149(1), Sch. 6 para. 13(3); S.I. 2011/664, art. 2(3), Sch. Pt. 2
- F17** S. 21(1)(l) inserted (1.12.2000) by 1999 c. 30, s. 84(1), Sch. 12 Pt. I para. 4; S.I. 2000/1116, art. 2(b)
- F18** S. 21(1)(m) added (6.4.2011) by Pensions Act 2008 (c. 30), s. 149(1), Sch. 6 para. 13(4); S.I. 2011/664, art. 2(3), Sch. Pt. 2
- F19** S. 21(2)-(5) inserted (1.12.2000) by 1999 c. 30, s. 22(5); S.I. 2000/1116, art. 2(a)
- F20** Words in s. 21(2) substituted (6.4.2011) by Pensions Act 2008 (c. 30), s. 149(1), Sch. 6 para. 13(5); S.I. 2011/664, art. 2(3), Sch. Pt. 2
- F21** Words in s. 21(4) added (6.3.2011 for specified purposes, 6.4.2011 in so far as not already in force) by Pensions Act 2008 (c. 30), s. 149(1), Sch. 6 para. 13(6); S.I. 2011/664, art. 2(2)(3), Sch. Pts. 1, 2

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