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**Changes to legislation:** Civil Partnership Act 2004, Paragraph 65 is up to date with all changes known to be in force on or before 18 March 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) View outstanding changes

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## SCHEDULES

### SCHEDULE 5

#### [<sup>F1</sup>FINANCIAL RELIEF: PROVISION CORRESPONDING TO PROVISION MADE BY PART 2 OF THE MATRIMONIAL CAUSES ACT 1973]

##### Textual Amendments

- F1** Sch. 5 title substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 177](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

### PART 12

#### ARREARS AND REPAYMENTS

*Orders for repayment after cessation of order because of subsequent civil partnership etc.*

- 65 (1) Sub-paragraphs (3) and (4) apply if—
- (a) a periodical payments or secured periodical payments order in favour of a civil partner (“R”) has ceased to have effect because of the formation of a subsequent civil partnership or marriage by R, and
  - (b) the person liable to make payments under the order (“P”) (or P’s personal representatives) has made payments in accordance with it in respect of a relevant period in the mistaken belief that the order was still subsisting.
- (2) “Relevant period” means a period after the date of the formation of the subsequent civil partnership or marriage.
- (3) P (or P’s personal representatives) is not entitled to bring proceedings in respect of a cause of action arising out of the circumstances mentioned in sub-paragraph (1)(a) and (b) against R (or R’s personal representatives).
- (4) But, on an application under this paragraph by P (or P’s personal representatives) against R (or R’s personal representatives), the court—
- (a) may order the respondent to pay to the applicant a sum equal to the amount of the payments made in respect of the relevant period, or
  - (b) if it appears to the court that it would be unjust to make that order, may—
    - (i) order the respondent to pay to the applicant such lesser sum as it thinks fit, or
    - (ii) dismiss the application.
- (5) An order under this paragraph for the payment of any sum may provide for the payment of that sum by instalments of such amount as may be specified in the order.
- (6) An application under this paragraph—

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- (a) may be made in proceedings in the High Court or [<sup>F1</sup>the family court] for leave to enforce, or the enforcement of, payment of arrears under the order in question, but
- (b) if not made in such proceedings, must be made to [<sup>F1</sup>the family court];
- and accordingly references in this paragraph to the court are references to the High Court or [<sup>F1</sup>the family court], as the circumstances require.
- <sup>F2</sup>(7) .....
- (8) Subject to sub-paragraph (9)—
- (a) [<sup>F3</sup>an officer of the family court] is not liable for any act done by him [<sup>F3</sup>, in pursuance of a payments order requiring payments to be made to the court or an officer of the court,] after the date on which that order ceased to have effect because of the formation of a subsequent civil partnership or marriage by the person entitled to payments under it, and
- (b) the collecting officer under an attachment of earnings order made to secure payments under a payments order is not liable for any act done by him after that date in accordance with any enactment or rule of court specifying how payments made to him in compliance with the attachment of earnings order are to be dealt with.
- (9) Sub-paragraph (8) applies if (and only if) the act—
- (a) was one which the officer would have been under a duty to do had the payments order not ceased to have effect, and
- (b) was done before notice in writing of the formation of the subsequent civil partnership or marriage was given to him by or on behalf of—
- (i) the person entitled to payments under the payments order,
- (ii) the person liable to make payments under it, or
- (iii) the personal representatives of either of them.
- (10) In sub-paragraphs (8) and (9) “payments order” means a periodical payments order or secured periodical payments order and “collecting officer”, in relation to an attachment of earnings order, means—
- (a) the officer of the High Court, [<sup>F4</sup>or
- (aa) the officer of the family court,]
- to whom a person makes payments in compliance with the order.

#### Textual Amendments

- F1** Words in Sch. 5 para. 65(6) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 172\(2\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F2** Sch. 5 para. 65(7) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 172\(3\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F3** Words in Sch. 5 para. 65(8)(a) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 172\(4\)\(a\)\(b\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

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**F4** Sch. 5 para. 65(10)(aa) and word substituted for Sch. 5 para. 65(10)(b)(c) (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 172\(5\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 102(8A) inserted by [2023 asp 3 s. 56\(2\)](#)
- s. 103(10) inserted by [2023 asp 3 s. 56\(5\)](#)
- s. 108(5) inserted by [2023 asp 3 s. 56\(8\)](#)
- s. 213(1A) inserted by [2013 c. 30 Sch. 2 para. 5\(2\)](#)