



Matrimonial and Family Proceedings Act 1984

1984 CHAPTER 42

PART III

FINANCIAL RELIEF IN ENGLAND AND WALES AFTER OVERSEAS DIVORCE ETC.

Avoidance of transactions intended to prevent or reduce financial relief

23 Avoidance of transactions intended to defeat applications for financial relief

- (1) For the purposes of this section " financial relief " means relief under section 14 or 17 above and any reference to defeating a claim by a party to a marriage for financial relief is a reference to preventing financial relief from being granted or reducing the amount of relief which might be granted, or frustrating or impeding the enforcement of any order which might be or has been made under either of those provisions at the instance of that party.
- (2) Where leave is granted under section 13 above for the making by a party to a marriage of an application for an order for financial relief under section 17 above, the court may, on an application by that party—
 - (a) if it is satisfied that the other party to the marriage is, with the intention of defeating the claim for financial relief, about to make any disposition or to transfer out of the jurisdiction or otherwise deal with any property, make such order as it thinks fit for restraining the other party from so doing or otherwise for protecting the claim;
 - (b) if it is satisfied that the other party has, with that intention, made a reviewable disposition and that if the disposition were set aside financial relief or different financial relief would be granted to the applicant, make an order setting aside the disposition.
- (3) Where an order for financial relief under section 14 or 17 above has been made by the court at the instance of a party to a marriage, then, on an application made by that

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party, the court may, if it is satisfied that the other party to the marriage has, with the intention of defeating the claim for financial relief, made a reviewable disposition, make an order setting aside the disposition.

- (4) Where the court has jurisdiction to entertain the application for an order for financial relief by reason only of paragraph (c) of section 15(1) above, it shall not make any order under subsection (2) or (3) above in respect of any property other than the dwelling-house concerned.
- (5) Where the court makes an order under subsection (2)(b) or (3) above setting aside a disposition it shall give such consequential directions as it thinks fit for giving effect to the order (including directions requiring the making of any payments or the disposal of any property).
- (6) Any disposition made by the other party to the marriage (whether before or after the commencement of the application) is a reviewable disposition for the purposes of subsections (2)(b) and (3) above unless it was made for valuable consideration (other than marriage) to a person who, at the time of the disposition, acted in relation to it in good faith and without notice of any intention on the part of the other party to defeat the applicant's claim for financial relief.
- (7) Where an application is made under subsection (2) or (3) above with respect to a disposition which took place less than three years before the date of the application or with respect to a disposition or other dealing with property which is about to take place and the court is satisfied—
 - (a) in a case falling within subsection (2)(a) or (b) above, that the disposition or other dealing would (apart from this section) have the consequence, or
 - (b) in a case falling within subsection (3) above, that the disposition has had the consequence,
 of defeating a claim by the applicant for financial relief, it shall be presumed, unless the contrary is shown, that the person who disposed of or is about to dispose of or deal with the property did so or, as the case may be, is about to do so, with the intention of defeating the applicant's claim for financial relief.
- (8) In this section " disposition " does not include any provision contained in a will or codicil but, with that exception, includes any conveyance, assurance or gift of property of any description, whether made by an instrument or otherwise.
- (9) The preceding provisions of this section are without prejudice to any power of the High Court to grant injunctions under section 37 of the Supreme Court Act 1981.

24 Prevention of transactions intended to defeat prospective applications for financial relief

- (1) Where, on an application by a party to a marriage, it appears to the court—
 - (a) that the marriage has been dissolved or annulled, or that the parties to the marriage have been legally separated, by means of judicial or other proceedings in an overseas country; and
 - (b) that the applicant intends to apply for leave to make an application for an order for financial relief under section 17 above as soon as he or she has been habitually resident in England and Wales for a period of one year; and
 - (c) that the other party to the marriage is, with the intention of defeating a claim for financial relief, about to make any disposition or to transfer out of the jurisdiction or otherwise deal with any property,

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the court may make such order as it thinks fit for restraining the other party from taking such action as is mentioned in paragraph (c) above.

- (2) For the purposes of an application under subsection (1) above—
 - (a) the reference to defeating a claim for financial relief shall be construed in accordance with subsection (1) of section 23 above (omitting the reference to any order which has been made); and
 - (b) subsections (7) and (8) of section 23 above shall apply as they apply for the purposes of an application under that section.
- (3) The preceding provisions of this section are without prejudice to any power of the High Court to grant injunctions under section 37 of the Supreme Court Act 1981.