



Domestic Proceedings and Magistrates' Courts Act 1978

1978 CHAPTER 22

PART I

MATRIMONIAL PROCEEDINGS IN MAGISTRATES' COURTS

Interim orders

19 Interim orders.

- (1) Where an application is made for an order under section 2, 6 or 7 of this Act—
- (a) the magistrates' court at any time before making a final order on, or dismissing, the application or on refusing to make an order on the application by virtue of section 27 of this Act, and
 - (b) the High Court on ordering the application to be reheard by a magistrates' court (either after the refusal of an order under section 27 of this Act or on an appeal under section 29 of this Act),

shall, subject to the provisions of this Part of this Act, have the [^{F1}following powers, that is to say]—

- (i) power to make an order (in this Part of this Act referred to as an “interim maintenance order”) which requires the respondent to make to the applicant or to any child of the family who is under the age of eighteen, or to the applicant for the benefit of such a child, such periodical payments as the court thinks reasonable;
- [^{F1}(ii) power if the court is of the opinion that there are special circumstances which make it desirable that provision should be made for the legal custody of any child of the family who is under the age of eighteen, to make an order (in this Part of this Act referred to as an “interim custody order”) which makes any such provision with respect to the legal custody of, and access to, the child as the court has power to make under section 8(2) of this Act.]

Status: Point in time view as at 01/02/1991.

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- [^{F2}(2) The power of the court under subsection (1)(i) above to make an interim maintenance order shall, if the person with whom the child has his home is a parent of the child but not a party to the marriage, include power to require the respondent to make periodical payments to that parent for the benefit of the child.]
- (3) An interim maintenance order may provide for payments to be made from such date as the court may specify, not being earlier than the date of the making of the application for an order under section 2, 6 or 7 of this Act; and where such an order made by the High Court on an appeal under section 29 of this Act provides for payments to be made from a date earlier than the date of the making of the order, the interim order may provide that payments made by the respondent under an order made by a magistrates' court shall, to such extent and in such manner as may be provided by the interim order, be treated as having been paid on account of any payment provided for by the interim order.
- [^{F3}(3A) Where an application is made for an order under section 6 of this Act by the party to the marriage who has agreed to make the financial provision specified in the application—
- (a) subsection (1) shall apply as if the reference in paragraph (i) to the respondent were a reference to the applicant and the references to the applicant were references to the respondent; and
 - (b) [^{F4}subsections (2) and][^{F4}subsection] (3) shall apply accordingly.]
- [^{F2}(4) Section 8(6) of this Act shall apply in relation to an interim custody order as it applies in relation to an order made under subsection (2) of that section.]
- (5) Subject to subsection (6) below, an interim order made on an application for an order under section 2, 6 or 7 of this Act shall cease to have effect on whichever of the following dates occurs first, that is to say—
- (a) the date, if any, specified for the purpose in the interim order;
 - (b) the date of the expiration of the period of three months beginning with the date of the making of the interim order;
 - (c) the date on which a magistrates' court either makes a final order on or dismisses the application.
- (6) Where an interim order made under subsection (1) above would, but for this subsection, cease to have effect by virtue of subsection (5)(a) or (b) above, the magistrates' court which made the order or, in the case of an interim order made by the High Court, the magistrates' court by which the application for an order under section 2, 6 or 7 of this Act is to be reheard, shall have power by order to provide that the interim order shall continue in force for a further period, and any order continued in force under this subsection shall cease to have effect on whichever of the following dates occurs first, that is to say—
- (a) the date, if any, specified for the purpose in the order made under this subsection;
 - (b) the date of the expiration of the period of three months beginning with the date of the making of the order under this subsection or, if more than one order has been made under this subsection with respect to the application, beginning with the date of the making of the first of those orders;
 - (c) the date on which the court either makes a final order on, or dismisses, the application.
- (7) Not more than one interim maintenance order [^{F5}and one interim custody order] may be made with respect to any application for an order under section 2, 6 or 7 of this

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Act, but without prejudice to the powers of a court under this section on any further such application.

- (8) No appeal shall lie from the making of or refusal to make, the variation of or refusal to vary, or the revocation of or refusal to revoke, an interim maintenance order.
- (9) An interim order made by the High Court under this section on ordering that an application be reheard by a magistrates' court shall, for the purpose of its enforcement and for the purposes of section 20 [^{F5} or 21] of this Act, be treated as if it were an order of that magistrates' court and not of the High Court.

Textual Amendments

- F1** S. 19(1)(b)(ii) and words repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108, Sch. 15 (with Sch. 14 paras. 1(1), **27(4)**)
- F2** S. 19(2)(4) repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108, Sch. 15 (with Sch. 14 paras. 1(1), **27(4)**)
- F3** S. 19(3A) inserted by Matrimonial and Family Proceedings Act 1984 (c. 42, SIF 49:3), ss. 46(1), 48(3), **Sch. 1 para. 24**
- F4** Word “subsection ” substituted (*prosp.*) for words “subsections (2) and ” by Children Act 1989 (c. 41, SIF 20), s. 108, Sch. 13 para 37 (with **Sch. 14 para. 1(1)**)
- F5** Words repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), S. 108, Sch. 15 (with Sch. 14 paras. 1(1), **27(4)**)

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