



Domestic Proceedings and Magistrates' Courts Act 1978

1978 CHAPTER 22

PART I

MATRIMONIAL PROCEEDINGS IN MAGISTRATES' COURTS

Powers of court as to the custody etc. of children

11 Provision for maintenance for children in case of certain orders under ss. 8 to 10

- (1) Where on an application under section 1 of this Act the court, although not satisfied of any ground mentioned in that section, makes an order under section 8(2) of this Act giving to the applicant the right to the actual custody of a child of the family, the court shall have the same powers to make an order in respect of that child under section 2(1) (c) and (d) of this Act as the court would have if it were so satisfied.
- (2) Where by an order made under section 8(2) of this Act the right to the actual custody of a child is given to the respondent, the court may make one or both of the following orders, that is to say—
 - (a) an order that the applicant shall make to the respondent for the benefit of the child or to the child such periodical payments, and for such term, as may be specified in the order;
 - (b) an order that the applicant shall pay to the respondent for the benefit of the child or to the child such lump sum as may be so specified.
- (3) Where by an order made under section 8(2) of this Act the legal custody of a child is given to a person who is a parent of that child but not a party to the marriage in question, the court may make one or more of the following orders, that is to say—
 - (a) an order that a party to the marriage shall make to that parent for the benefit of the child or to the child such periodical payments, and for such term, as may be specified in the order;

Status: This is the original version (as it was originally enacted).

- (b) an order that a party to the marriage shall make to that parent for the benefit of the child or to the child such lump sum as may be so specified.
- (4) Where an order under section 10(1) of this Act commits the care of a child to a local authority the court may make a further order requiring a party to the marriage in question to make to that authority or to the child such periodical payments, and for such term, as may be specified in the order.
 - (5) The court in deciding whether to exercise its powers under subsection (2), (3) or (4) above in relation to any child and, if so, in what manner, shall have regard to all the circumstances of the case including the matters to which the court is required to have regard under section 3(2) of this Act, and, in deciding whether to make an order against a party to the marriage who is not a parent of that child, shall also have regard (among the circumstances of the case)—
 - (a) to whether that party had assumed any responsibility for the child's maintenance and, if so, to the extent to which, and the basis upon which, that party assumed that responsibility and to the length of time for which he discharged that responsibility ;
 - (b) to whether in assuming and discharging that responsibility that party did so knowing that the child was not his own child ;
 - (c) to the liability of any other person to maintain the child.
 - (6) The provisions of section 5 of this Act (other than subsection (3)(a)) shall apply in relation to an order under subsection (2)(a), (3)(a) or (4) above as they apply in relation to an order under section 2(1)(c) of this Act.
 - (7) The provisions of section 2(2) and (3) of this Act shall apply in relation to an order under subsection (2)(b) or (3)(b) above as they apply in relation to an order under section 2(1)(d) of this Act and no order shall be made under subsection (2)(b) or (3)(b) above in respect of a child who has attained the age of eighteen.
 - (8) Where the court, by virtue of subsection (6) of section 8 of this Act, directs that an order made under subsection (2) of that section in respect of a child, or the provision thereof providing for the custody of the child, shall not have effect until the expiration of a specified period or the occurrence of a specified event, an order made in respect of that child under subsection (2)(a) or (3)(a) above shall only require payments to be made from the date on which the order made under section 8(2) of this Act, or that provision thereof, takes effect.