



Matrimonial and Family Proceedings Act 1984

1984 CHAPTER 42

PART II

FINANCIAL RELIEF IN MATRIMONIAL PROCEEDINGS

Provisions relating to the powers of magistrates' courts

9 Orders for financial relief made by magistrates' courts in matrimonial proceedings.

- (1) For section 3 of the ^{M1}Domestic Proceedings and Magistrates' Courts Act 1978 there shall be substituted the following section—

“3 Matters to which court is to have regard in exercising its powers under s.2.

- (1) Where an application is made for an order under section 2 of this Act, it shall be the duty of the court, in deciding whether to exercise its powers under that section and, if so, in what manner, to 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.
- (2) As regards the exercise of its powers under subsection (1)(a) or (b) of section 2, the court shall in particular have regard to the following matters—
- (a) the income, earning capacity, property and other financial resources which each of the parties to the marriage has or is likely to have in the foreseeable future, including in the case of earning capacity any increase in that capacity which it would in the opinion of the court be reasonable to expect a party to the marriage to take steps to acquire;
 - (b) the financial needs, obligations and responsibilities which each of the parties to the marriage has or is likely to have in the foreseeable future;

*Changes to legislation: There are currently no known outstanding effects for the
 Matrimonial and Family Proceedings Act 1984, Section 9. (See end of Document for details)*

- (c) the standard of living enjoyed by the parties to the marriage before the occurrence of the conduct which is alleged as the ground of the application;
 - (d) the age of each party to the marriage and the duration of the marriage;
 - (e) any physical or mental disability of either of the parties to the marriage;
 - (f) the contributions which each of the parties has made or is likely in the foreseeable future to make to the welfare of the family, including any contribution by looking after the home or caring for the family;
 - (g) the conduct of each of the parties, if that conduct is such that it would in the opinion of the court be inequitable to disregard it.
- (3) As regards the exercise of its powers under subsection (1)(c) or (d) of section 2, the court shall in particular have regard to the following matters—
- (a) the financial needs of the child;
 - (b) the income, earning capacity (if any), property and other financial resources of the child;
 - (c) any physical or mental disability of the child;
 - (d) the standard of living enjoyed by the family before the occurrence of the conduct which is alleged as the ground of the application;
 - (e) the manner in which the child was being and in which the parties to the marriage expected him to be educated or trained;
 - (f) the matters mentioned in relation to the parties to the marriage in paragraphs (a) and (b) of subsection (2) above.
- (4) As regards the exercise of its powers under section 2 in favour of a child of the family who is not the child of the respondent, the court shall also have regard—
- (a) to whether the respondent has assumed any responsibility for the child’s maintenance and, if he did, to the extent to which, and the basis on which, he assumed that responsibility and to the length of time during which he discharged that responsibility;
 - (b) to whether in assuming and discharging that responsibility the respondent did so knowing that the child was not his own child;
 - (c) to the liability of any other person to maintain the child.”
- (2) In section 5(2) of that Act (duration of periodical payments orders in favour of children), in paragraph (a), for the words “unless the court thinks it right in the circumstances of the case to specify a later date” there shall be substituted the words “unless the court considers that in the circumstances of the case the welfare of the child requires that it should extend to a later date”.
- (3) In section 20(11) of that Act (variation and revocation of orders for periodical payments) for the words “including any change” there shall be substituted the words “first consideration being given to the welfare while a minor of any child of the family who has not attained the age of eighteen, and the circumstances of the case shall include any change”.

Marginal Citations

M1 1978 c. 22.

Changes to legislation:

There are currently no known outstanding effects for the Matrimonial and Family Proceedings Act 1984, Section 9.