



PUMP COURT

CHAMBERS

**Children Act 1989**  
**Financial claims schedule 1**  
Stuart McGhee



# Financial Provision for Children

- a) an order requiring either or both parents of a child—
  - I. to make to the applicant for the benefit of the child; or
  - II. to make to the child himself,  
such periodical payments, for such term, as may be specified in the order;
  
- b) an order requiring either or both parents of a child—
  - i. to secure to the applicant for the benefit of the child; or
  - ii. to secure to the child himself,  
such periodical payments, for such term, as may be so specified;
  
- c) an order requiring either or both parents of a child—
  - i. to pay to the applicant for the benefit of the child; or
  - ii. to pay to the child himself,  
such lump sum as may be so specified;

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- d) an order requiring a settlement to be made for the benefit of the child, and to the satisfaction of the court, of property—
  - I. to which either parent is entitled (either in possession or in reversion); and
  - II. which is specified in the order;
  
- e) an order requiring either or both parents of a child—
  - i. (i) to transfer to the applicant, for the benefit of the child; or
  - ii. (ii) to transfer to the child himself, such property to which the parent is, or the parents are, entitled (either in possession or in reversion) as may be specified in the order.

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- 3) The powers conferred by this paragraph may be exercised at any time.
- 4) An order under sub-paragraph (2)(a) or (b) may be varied or discharged by a subsequent order made on the application of any person by or to whom payments were required to be made under the previous order.
- 5) Where a court makes an order under this paragraph—
  - a) it may at any time make a further such order under sub-paragraph (2)(a), (b) or (c) with respect to the child concerned if he has not reached the age of eighteen;
  - b) it may not make more than one order under sub-paragraph (2)(d) or (e) against the same person in respect of the same child.
- 6) On making, varying or discharging a residence order the court may exercise any of its powers under this Schedule even though no application has been made to it under this Schedule.

# CSA 1991 & the Court

## **Role of the courts with respect to maintenance for children**

- 1) This subsection applies in any case where a child support officer would have jurisdiction to make a maintenance assessment with respect to a qualifying child and an absent parent of his on an application duly made by a person entitled to apply for such an assessment with respect to that child.
- 2) Subsection (1) applies even though the circumstances of the case are such that a child support officer would not make an assessment if it were applied for.
- 3) In any case where subsection (1) applies, no court shall exercise any power which it would otherwise have to make, vary or revive any maintenance order in relation to the child and absent parent concerned.
- 4) Subsection (3) does not prevent a court from revoking a maintenance order.

# CSA 1991 & the Court

- 5) The Lord Chancellor or in relation to Scotland the Lord Advocate may by order provide that, in such circumstances as may be specified by the order, this section shall not prevent a court from exercising any power which it has to make a maintenance order in relation to a child if—
- a) a written agreement (whether or not enforceable) provides for the making, or securing, by an absent parent of the child of periodical payments to or for the benefit of the child; and
  - b) the maintenance order which the court makes is, in all material respects, in the same terms as that agreement.
- (6) This section shall not prevent a court from exercising any power which it has to make a maintenance order in relation to a child if—
- a) a maintenance assessment is in force with respect to the child;
  - b) the amount of the child support maintenance payable in accordance with the assessment was determined by reference to the alternative formula mentioned in paragraph 4(3) of Schedule 1; and
  - c) the court is satisfied that the circumstances of the case make it appropriate for the absent parent to make or secure the making of periodical payments under a maintenance order in addition to the child support maintenance payable by him in accordance with the maintenance assessment.

# CSA 1991 & the Court

- 7) This section shall not prevent a court from exercising any power which it has to make a maintenance order in relation to a child if—
  - a) the child is, will be or (if the order were to be made) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation (whether or not while in gainful employment); and
  - b) the order is made solely for the purposes of requiring the person making or securing the making of periodical payments fixed by the order to meet some or all of the expenses incurred in connection with the provision of the instruction or training.
  
- 8) This section shall not prevent a court from exercising any power which it has to make a maintenance order in relation to a child if—
  - a) a disability living allowance is paid to or in respect of him; or
  - b) no such allowance is paid but he is disabled,

and the order is made solely for the purpose of requiring the person making or securing the making of periodical payments fixed by the order to meet some or all of any expenses attributable to the child's disability.

# CSA 1991 & the Court

- 9) For the purposes of subsection (8), a child is disabled if he is blind, deaf or dumb or is substantially and permanently handicapped by illness, injury, mental disorder or congenital deformity or such other disability as may be prescribed.
- 10) This section shall not prevent a court from exercising any power which it has to make a maintenance order in relation to a child if the order is made against a person with care of the child.



# Caselaw Speed Update

- DN v UD [2020] EWHC 627
- X v Y & Z [2020] EWFC 80
- X v Y & Z [2021] EWFC 72
- FS v RS & JS [2020] EWFC 63
- AZ v FM [2021] EWFC 2
- J & K v L [2021] EWFC B104
- UD v DN [2021] EWCA Civ 1947
- Re A [2022] EWFC 21
- G v W [2022] EWHC 1101 (Fam)

- Currey v Currey (No.2) [2007] 1 FLR 946
- Rubin v Rubin [2014] 2 FLR 1018
- BC v DE [2017] 1 FLR 1521
- LP v AE [2020] EWHC 1668 (Fam)
- BSA v NVT [2020] EWHC 2906
- MT v VA [2020] EWHC 3087 (Fam)
- FRB v DCA [2021] EWHC 116 (Fam)
- LM v DM [2021] EWFC 28

# Lump Sum or Maintenance

## Principles:

- Phillips v Peace [1996] 2 FLR 230
- D v R [2014] EWHC 4306
- Green v Adams [2017] 2 FLR 1413

## Scenario considerations:

- i. “rent payments”
- ii. “50-50 Care” & the Nil assessment



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