

NATIONAL LEGISLATION: ENGLAND & WALES

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1. SOCIAL SECURITY AND TAX LEGISLATION GOVERNING INFORMAL RELATIONSHIPS

The governing legislation for social security and tax credits which defines 'living together as husband and wife or as civil partners' is set out below. The Civil Partnership Act 2004 extended the definition of living together as husband and wife to those who live together as civil partners and more recent legislation incorporates both definitions:

Section 137 Social Security Contributions and Benefits Act 1992 & s 35 Jobseekers Act 1995:

'unmarried couple' means a man and woman who are not married to each other but are living together as husband and wife otherwise than in prescribed circumstances.

Schedule 1 para. 6(5)(b)&(d) Welfare Reform Act 2007 and s 17 State Pension Credit Act 2002: define 'a couple' to include 'a man and woman who are not married to each other, but are living together as husband and wife otherwise than in prescribed circumstances;

two people of the same sex who are not civil partners of each other, but are living together as if they were civil partners otherwise than in prescribed circumstances.'

Section 3(5) Tax Credits Act 2002 and s 39 Welfare Reform Act 2012: define 'a couple' to include

'(b) a man and woman who are not married to each other but are living together as husband and wife, [...]

(d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners.'

2. DOMESTIC VIOLENCE LEGISLATION GOVERNING INFORMAL RELATIONSHIPS

The Family Law Act 1996 Part IV extends domestic violence remedies of non-molestation orders and occupation orders to 'Associated Persons'.

Section 62(3) Family Law Act 1996: defines this concept to include cohabitants:

'For the purposes of this Part, a person is associated with another person if [...]

b) they are cohabitants or former cohabitants ‘.

Cohabitants are defined in **s 62(1) Family Law Act 1996** as follows:

‘(a) “cohabitants” are two persons who are neither married to each other nor civil partners of each other but are living together as husband and wife or as if they were civil partners.

(b) “cohabit” and “former cohabitants” are to be read accordingly, but the latter expression does not include cohabitants who have subsequently married each other or become civil partners of each other.’

3. STATUTORY WRONGFUL DEATH SUITS

Section 3(c) Pneumoconiosis (Workers’ Compensation) Act 1979 includes as eligible claimants: ‘a reputed spouse who was residing with the deceased.’

Section 1(3) Fatal Accidents Act 1976 requires an eligible cohabitant claimant to show that they ‘lived in the same household with the deceased for a period of at least two years immediately before the death as the husband or wife (or as the civil partner) of the deceased.’

4. SUCCESSION TO RENTED TENANCIES OF THE FAMILY HOME

Informal couples are mainly treated as spouses:

Schedule 1 para. 2(1) to the Rent Act 1977, s 17 Housing Act 1988, ss 131 & 140(1) Housing Act 1996:

‘(a) a person who was living with the original tenant as his or her wife or husband shall be treated as the spouse of the original tenant, and

(b) a person who was living with the original tenant as if they were civil partners shall be treated as the civil partner of the original tenant.’

However, **s87 Housing Act 1985** governing secure Local Authority tenancies additionally requires eligible cohabitants falling within the above definition to have lived together ‘as husband and wife’ or ‘as civil partners’ for a period of 12 months’.

5. HOMESLESSNESS LEGISLATION: HOUSING ACT 1996 PART VII

Section 178(3) Housing Act 1996 defines family to include those who 'live together as husband and wife or as if they were civil partners', placing a statutory duty to house such families who meet the other criteria.

6. INHERITANCE

S1A Inheritance (Provision for Family and Dependants) Act 1975 defines an eligible applicant to include heterosexual cohabitant of the deceased:

'1A) This subsection applies to a person if the deceased died on or after 1st January 1996 and, during the whole of the period of two years ending immediately before the date when the deceased died, the person was living –

(a) in the same household as the deceased, and

(b) as the husband or wife of the deceased.

1B) This subsection applies to a person if for the whole of the period of two years ending immediately before the date when the deceased died, the person was living-

(a) in the same household as the deceased, and

(b) as the civil partner of the deceased.'

7. ADOPTION

Section 144(4)(b) Adoption and Children Act 2002 defines a couple as: 'two people (whether of different sexes or the same sex) living as partners in an enduring family relationship.'

8. TRUSTS OF LAND AND APPOINTMENT OF TRUSTEES ACT 1996

(This legislation is the mechanism for resolving disputes relating to the ownership of the owner occupied family home or other property which is or claimed to be subject to a trust where ownership is disputed which must be used in disputes between cohabitants.)

S 14 Applications for order.

- (1) Any person who is a trustee of land or has an interest in property subject to a trust of land may make an application to the court for an order under this section.
- (2) On an application for an order under this section the court may make any such order –
 - (a) relating to the exercise by the trustees of any of their functions (including an order relieving them of any obligation to obtain the consent of, or to consult, any person in connection with the exercise of any of their functions), or
 - (b) declaring the nature or extent of a person's interest in property subject to the trust,
as the court thinks fit.
- (3) The court may not under this section make any order as to the appointment or removal of trustees.
- (4) The powers conferred on the court by this section are exercisable on an application whether it is made before or after the commencement of this Act.

S 15 Matters relevant in determining applications.

- (1) The matters to which the court is to have regard in determining an application for an order under section 14 include –
 - (a) the intentions of the person or persons (if any) who created the trust,
 - (b) the purposes for which the property subject to the trust is held,
 - (c) the welfare of any minor who occupies or might reasonably be expected to occupy any land subject to the trust as his home, and
 - (d) the interests of any secured creditor of any beneficiary.
- (2) In the case of an application relating to the exercise in relation to any land of the powers conferred on the trustees by section 13, the matters to which the court is to have regard also include the circumstances and wishes of each of the beneficiaries who is (or apart from any previous exercise by the trustees of those powers would be) entitled to occupy the land under section 12.
- (3) In the case of any other application, other than one relating to the exercise of the power mentioned in section 6(2), the matters to which the court is to have regard also include the circumstances and wishes of any beneficiaries of full age and entitled to an interest in possession in property subject to the trust or (in case of dispute) of the majority (according to the value of their combined interests).
- (4) This section does not apply to an application if section 335A of the Insolvency Act 1986 (which is inserted by Schedule 3 and relates to applications by a trustee of a bankrupt) applies to it.

9. FAMILY LAW ACT 1996 PART IV – OCCUPATION DISPUTES AND OCCUPATION ORDERS

(Disputes relating to the occupation of the family home usually in the domestic violence context.)

S 33 Occupation orders where applicant has estate or interest etc. or has home rights.

(1) If –

(a) a person (“the person entitled”) –

(i) is entitled to occupy a dwelling-house by virtue of a beneficial estate or interest or contract or by virtue of any enactment giving him the right to remain in occupation, or

(ii) has home rights in relation to a dwelling-house, and

(b) the dwelling-house –

(i) is or at any time has been the home of the person entitled and of another person with whom he is associated, or

(ii) was at any time intended by the person entitled and any such other person to be their home,

the person entitled may apply to the court for an order containing any of the provisions specified in subsections (3), (4) and (5).

(2) If an agreement to marry is terminated, no application under this section may be made by virtue of section 62(3)(e) by reference to that agreement after the end of the period of three years beginning with the day on which it is terminated.

(2A) If a civil partnership agreement (as defined by section 73 of the Civil Partnership Act 2004) is terminated, no application under this section may be made by virtue of section 62(3)(eza) by reference to that agreement after the end of the period of three years beginning with the day on which it is terminated.

(3) An order under this section may –

(a) enforce the applicant’s entitlement to remain in occupation as against the other person (“the respondent”);

(b) require the respondent to permit the applicant to enter and remain in the dwelling-house or part of the dwelling-house;

(c) regulate the occupation of the dwelling-house by either or both parties;

(d) if the respondent is entitled as mentioned in subsection (1)(a)(i), prohibit, suspend or restrict the exercise by him of his right to occupy the dwelling-house;

(e) if the respondent has home rights in relation to the dwelling-house and the applicant is the other spouse or civil partner, restrict or terminate those rights;

- (f) require the respondent to leave the dwelling-house or part of the dwelling-house; or
 - (g) exclude the respondent from a defined area in which the dwelling-house is included.
- (4) An order under this section may declare that the applicant is entitled as mentioned in subsection (1)(a)(i) or has home rights.
- (5) If the applicant has home rights and the respondent is the other spouse or civil partner, an order under this section made during the marriage or civil partnership may provide that those rights are not brought to an end by –
- (a) the death of the other spouse or civil partner; or
 - (b) the termination (otherwise than by death) of the marriage or civil partnership.
- (6) In deciding whether to exercise its powers under subsection (3) and (if so) in what manner, the court shall have regard to all the circumstances including –
- (a) the housing needs and housing resources of each of the parties and of any relevant child;
 - (b) the financial resources of each of the parties;
 - (c) the likely effect of any order, or of any decision by the court not to exercise its powers under subsection (3), on the health, safety or well-being of the parties and of any relevant child; and
 - (d) the conduct of the parties in relation to each other and otherwise.
- (7) If it appears to the court that the applicant or any relevant child is likely to suffer significant harm attributable to conduct of the respondent if an order under this section containing one or more of the provisions mentioned in subsection (3) is not made, the court shall make the order unless it appears to it that –
- (a) the respondent or any relevant child is likely to suffer significant harm if the order is made; and
 - (b) the harm likely to be suffered by the respondent or child in that event is as great as, or greater than, the harm attributable to conduct of the respondent which is likely to be suffered by the applicant or child if the order is not made.
- (8) The court may exercise its powers under subsection (5) in any case where it considers that in all the circumstances it is just and reasonable to do so.
- (9) An order under this section –
- (a) may not be made after the death of either of the parties mentioned in subsection (1); and
 - (b) except in the case of an order made by virtue of subsection (5)(a), ceases to have effect on the death of either party.

(10) An order under this section may, in so far as it has continuing effect, be made for a specified period, until the occurrence of a specified event or until further order.

S 36 One cohabitant or former cohabitant with no existing right to occupy.

(1) This section applies if –

- (a) one cohabitant or former cohabitant is entitled to occupy a dwelling-house by virtue of a beneficial estate or interest or contract or by virtue of any enactment giving him the right to remain in occupation;
- (b) the other cohabitant or former cohabitant is not so entitled; and
- (c) that dwelling-house is the home in which they cohabit or a home in which they at any time cohabited or intended to cohabit.

(2) The cohabitant or former cohabitant not so entitled may apply to the court for an order under this section against the other cohabitant or former cohabitant (“the respondent”).

(3) If the applicant is in occupation, an order under this section must contain provision –

- (a) giving the applicant the right not to be evicted or excluded from the dwelling-house or any part of it by the respondent for the period specified in the order; and
- (b) prohibiting the respondent from evicting or excluding the applicant during that period.

(4) If the applicant is not in occupation, an order under this section must contain provision –

- (a) giving the applicant the right to enter into and occupy the dwelling-house for the period specified in the order; and
- (b) requiring the respondent to permit the exercise of that right.

(5) An order under this section may also –

- (a) regulate the occupation of the dwelling-house by either or both of the parties;
- (b) prohibit, suspend or restrict the exercise by the respondent of his right to occupy the dwelling-house;
- (c) require the respondent to leave the dwelling-house or part of the dwelling-house; or
- (d) exclude the respondent from a defined area in which the dwelling-house is included.

(6) In deciding whether to make an order under this section containing provision of the kind mentioned in subsection (3) or (4) and (if so) in what manner, the court shall have regard to all the circumstances including –

- (a) the housing needs and housing resources of each of the parties and of any relevant child;

- (b) the financial resources of each of the parties;
 - (c) the likely effect of any order, or of any decision by the court not to exercise its powers under subsection (3) or (4), on the health, safety or well-being of the parties and of any relevant child;
 - (d) the conduct of the parties in relation to each other and otherwise;
 - (e) the nature of the parties' relationship and in particular the level of commitment involved in it;
 - (f) the length of time during which they have cohabited;
 - (g) whether there are or have been any children who are children of both parties or for whom both parties have or have had parental responsibility;
 - (h) the length of time that has elapsed since the parties ceased to live together; and
 - (i) the existence of any pending proceedings between the parties –
 - (i) for an order under paragraph 1(2)(d) or (e) of Schedule 1 to the Children Act 1989 (orders for financial relief against parents); or
 - (ii) relating to the legal or beneficial ownership of the dwelling-house.
- (7) In deciding whether to exercise its powers to include one or more of the provisions referred to in subsection (5) (“a subsection (5) provision”) and (if so) in what manner, the court shall have regard to all the circumstances including –
- (a) the matters mentioned in subsection (6)(a) to (d); and
 - (b) the questions mentioned in subsection (8).
- (8) The questions are –
- (a) whether the applicant or any relevant child is likely to suffer significant harm attributable to conduct of the respondent if the subsection (5) provision is not included in the order; and
 - (b) whether the harm likely to be suffered by the respondent or child if the provision is included is as great as or greater than the harm attributable to conduct of the respondent which is likely to be suffered by the applicant or child if the provision is not included.
- (9) An order under this section –
- (a) may not be made after the death of either of the parties; and
 - (b) ceases to have effect on the death of either of them.
- (10) An order under this section must be limited so as to have effect for a specified period not exceeding six months, but may be extended on one occasion for a further specified period not exceeding six months.
- (11) A person who has an equitable interest in the dwelling-house or in the proceeds of sale of the dwelling-house but in whom there is not vested (whether solely or as joint tenant) a legal estate in fee simple or a legal term of years absolute in the dwelling-house is to be treated (but only for the purpose of determining whether he is eligible to apply under this section)

as not being entitled to occupy the dwelling-house by virtue of that interest.

(12) Subsection (11) does not prejudice any right of such a person to apply for an order under section 33.

(13) So long as the order remains in force, subsections (3) to (6) of section 30 apply in relation to the applicant –

(a) as if he were B (the person entitled to occupy the dwelling-house by virtue of that section); and

(b) as if the respondent were A (the person entitled as mentioned in subsection (1)(a) of that section).

10. SCHEDULE 7 FAMILY LAW ACT 1996: TRANSFER OF CERTAIN TENANCIES ON DIVORCE ETC. OR ON SEPERATION OF COHABITANTS

PART I GENERAL

Interpretation

1. In this Schedule –

- “civil partner”, except in paragraph 2, includes (where the context requires) former civil partner;
- “cohabitant”, except in paragraph 3, includes (where the context requires) former cohabitant;
- “the court” does not include a magistrates’ court,
- “landlord” includes –

(a) any person from time to time deriving title under the original landlord; and

(b) in relation to any dwelling-house, any person other than the tenant who is, or (but for Part VII of the Rent Act 1977 or Part II of the Rent (Agriculture) Act 1976) would be, entitled to possession of the dwelling-house;

- “Part II order” means an order under Part II of this Schedule;

- “a relevant tenancy” means –

(a) a protected tenancy or statutory tenancy within the meaning of the Rent Act 1977;

(b) a statutory tenancy within the meaning of the Rent (Agriculture) Act 1976;

(c) a secure tenancy within the meaning of section 79 of the Housing Act 1985; [...]

(d) an assured tenancy or assured agricultural occupancy within the meaning of Part I of the Housing Act 1988; or

- (e) an introductory tenancy within the meaning of Chapter I of Part V of the Housing Act 1996;
- “spouse”, except in paragraph 2, includes (where the context requires) former spouse; and
 - “tenancy” includes sub-tenancy.

Cases in which the court may make an order

[...]

(1) This paragraph applies if one cohabitant is entitled, either in his own right or jointly with the other cohabitant, to occupy a dwelling-house by virtue of a relevant tenancy.

(2) If the cohabitants cease to cohabit, the court may make a Part II order. The court shall not make a Part II order unless the dwelling-house is or was –

[...]

(b) in the case of cohabitants, a home in which they cohabited.

Matters to which the court must have regard

5. In determining whether to exercise its powers under Part II of this Schedule and, if so, in what manner, the court shall have regard to all the circumstances of the case including –

(a) the circumstances in which the tenancy was granted to either or both of the spouses, civil partners or cohabitants or, as the case requires, the circumstances in which either or both of them became tenant under the tenancy;

(b) the matters mentioned in section 33(6)(a), (b) and (c) and, where the parties are cohabitants and only one of them is entitled to occupy the dwelling-house by virtue of the relevant tenancy, the further matters mentioned in section 36(6)(e), (f), (g) and (h); and

(c) the suitability of the parties as tenants.

11. FINANCIAL PROVISION FOR THE BENEFIT OF A CHILD – S15 AND SCHEDULE 1 CHILDREN ACT 1989

(The provisions below in Schedule 1 Children Act 1989 may be used in addition to the child support legislation by one parent to obtain financial provision for a child from their other parent. It is used by, but not restricted to, cohabitants who are parents of a child.)

Schedule 1 Children Act 1989 - FINANCIAL PROVISION FOR CHILDREN

Orders for financial relief against parents

1(1) On an application made by a parent, guardian or special guardian of a child, or by any person in whose favour a residence order is in force with respect to a child, the court may –

(a) in the case of an application to the High Court or a county court, make one or more of the orders mentioned in sub-paragraph (2);

(b) in the case of an application to a magistrates' court, make one or both of the orders mentioned in paragraphs (a) and (c) of that sub-paragraph.

(2) The orders referred to in sub-paragraph (1) are –

(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;

(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) to transfer to the applicant, for the benefit of the child; or

(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.

(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 or a special guardianship order the court may exercise any of its powers under this Schedule even though no application has been made to it under this Schedule.

(7) Where a child is a ward of court, the court may exercise any of its powers under this Schedule even though no application has been made to it.

Duration of orders for financial relief

3(1) The term to be specified in an order for periodical payments made under paragraph 1(2)(a) or (b) in favour of a child may begin with the date of the making of an application for the order in question or any later date or a date ascertained in accordance with sub-paragraph (5) or (6) but –

(a) shall not in the first instance extend beyond the child's seventeenth birthday unless the court thinks it right in the circumstances of the case to specify a later date; and

(b) shall not in any event extend beyond the child's eighteenth birthday.

(2) Paragraph (b) of sub-paragraph (1) shall not apply in the case of a child if it appears to the court that –

(a) the child is, or will be or (if an order were made without complying with that paragraph) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not while in gainful employment; or

(b) there are special circumstances which justify the making of an order without complying with that paragraph.

(3) An order for periodical payments made under paragraph 1(2)(a) or 2(2)(a) shall, notwithstanding anything in the order, cease to have effect on the death of the person liable to make payments under the order.

(4) Where an order is made under paragraph 1(2)(a) or (b) requiring periodical payments to be made or secured to the parent of a child, the order shall cease to have effect if –

(a) any parent making or securing the payments; and

(b) any parent to whom the payments are made or secured, live together for a period of more than six months.

(5) Where –

(a) a maintenance calculation ("the current calculation") is in force with respect to a child; and

(b) an application is made for an order under paragraph 1(2)(a) or (b) of this Schedule for periodical payments in favour of that child –

(i) in accordance with section 8 of the Child Support Act 1991; and

(ii) before the end of the period of 6 months beginning with the making of the current calculation,

the term to be specified in any such order made on that application may be expressed to begin on, or at any time after, the earliest permitted date.

(6) For the purposes of subsection (5) above, “the earliest permitted date” is whichever is the later of –

- (a) the date 6 months before the application is made; or
- (b) the date on which the current calculation took effect or, where successive maintenance calculations have been continuously in force with respect to a child, on which the first of those calculations took effect.

(7) Where –

- (a) a maintenance calculation ceases to have effect or is cancelled by or under any provision of the Child Support Act 1991, and
- (b) an application is made, before the end of the period of 6 months beginning with the relevant date, for an order for periodical payments under paragraph 1(2)(a) or (b) in favour of a child with respect to whom that maintenance calculation was in force immediately before it ceased to have effect or was cancelled,

the term to be specified in any such order, or in any interim order under paragraph 9, made on that application may begin with the date on which that maintenance calculation ceased to have effect or, as the case may be, the date with effect from which it was cancelled, or any later date.

(8) In sub-paragraph (7)(b) –

- (a) where the maintenance calculation ceased to have effect, the relevant date is the date on which it so ceased; and
- (b) where the maintenance assessment was cancelled, the relevant date is the later of –
 - (i) the date on which the person who cancelled it did so, and
 - (ii) the date from which the cancellation first had effect.

Matters to which court is to have regard in making orders for financial relief

4(1) In deciding whether to exercise its powers under paragraph 1 or 2, and if so in what manner, the court shall have regard to all the circumstances including –

- (a) the income, earning capacity, property and other financial resources which each person mentioned in sub-paragraph (4) has or is likely to have in the foreseeable future;
- (b) the financial needs, obligations and responsibilities which each person mentioned in sub-paragraph (4) has or is likely to have in the foreseeable future;
- (c) the financial needs of the child;
- (d) the income, earning capacity (if any), property and other financial resources of the child;

- (e) any physical or mental disability of the child;
 - (f) the manner in which the child was being, or was expected to be, educated or trained.
- (2) In deciding whether to exercise its powers under paragraph 1 against a person who is not the mother or father of the child, and if so in what manner, the court shall in addition have regard to –
- (a) whether that person had assumed responsibility for the maintenance of the child and, if so, the extent to which and basis on which he assumed that responsibility and the length of the period during which he met that responsibility;
 - (b) whether he did so knowing that the child was not his child;
 - (c) the liability of any other person to maintain the child.
- (3) Where the court makes an order under paragraph 1 against a person who is not the father of the child, it shall record in the order that the order is made on the basis that the person against whom the order is made is not the child's father.
- (4) The persons mentioned in sub-paragraph (1) are –
- (a) in relation to a decision whether to exercise its powers under paragraph 1, any parent of the child;
 - (b) in relation to a decision whether to exercise its powers under paragraph 2, the mother and father of the child;
 - (c) the applicant for the order;
 - (d) any other person in whose favour the court proposes to make the order.
- (5) In the case of a child who has a parent by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008, any reference in sub-paragraph (2), (3) or (4) to the child's father is a reference to the woman who is a parent of the child by virtue of that section.

Provisions relating to lump sums

- 5(1) Without prejudice to the generality of paragraph 1, an order under that paragraph for the payment of a lump sum may be made for the purpose of enabling any liabilities or expenses –
- (a) incurred in connection with the birth of the child or in maintaining the child; and
 - (b) reasonably incurred before the making of the order, to be met.
- (2) The amount of any lump sum required to be paid by an order made by a magistrates' court under paragraph 1 or 2 shall not exceed £1000 or such larger amount as the Lord Chancellor may, after consulting the Lord Chief Justice, from time to time by order fix for the purposes of this sub-paragraph.

(3) The power of the court under paragraph 1 or 2 to vary or discharge an order for the making or securing of periodical payments by a parent shall include power to make an order under that provision for the payment of a lump sum by that parent.

(4) The amount of any lump sum which a parent may be required to pay by virtue of sub-paragraph (3) shall not, in the case of an order made by a magistrates' court, exceed the maximum amount that may at the time of the making of the order be required to be paid under sub-paragraph (2), but a magistrates' court may make an order for the payment of a lump sum not exceeding that amount even though the parent was required to pay a lump sum by a previous order under this Act.

(5) An order made under paragraph 1 or 2 for the payment of a lump sum may provide for the payment of that sum by instalments.

(6) Where the court provides for the payment of a lump sum by instalments the court, on an application made either by the person liable to pay or the person entitled to receive that sum, shall have power to vary that order by varying –

- (a) the number of instalments payable;
- (b) the amount of any instalment payable;
- (c) the date on which any instalment becomes payable.

(7) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this paragraph.