

**Changes to legislation:** Civil Partnership Act 2004, Part 8 is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## SCHEDULES

### SCHEDULE 15

#### FINANCIAL RELIEF IN THE HIGH COURT OR A COUNTY COURT ETC.: NORTHERN IRELAND

##### Modifications etc. (not altering text)

- C1** Sch. 15: functions transferred (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 15(1), [Sch. 17 para. 21\(b\)](#) (with arts. 15(6), 28-31)

### PART 8

#### FAILURE TO MAINTAIN: FINANCIAL PROVISION (AND INTERIM ORDERS)

##### *Circumstances in which orders under this Part may be made*

- 34 (1) Either civil partner in a subsisting civil partnership may apply to the court for an order under this Part on the ground that the other civil partner (“the respondent”)—
- (a) has failed to provide reasonable maintenance for the applicant, or
  - (b) has failed to provide, or to make a proper contribution towards, reasonable maintenance for any child of the family.
- [<sup>F1</sup>(2) The court must not entertain an application under this paragraph unless—
- (a) the applicant or the respondent is domiciled in Northern Ireland on the date of the application,
  - (b) the applicant has been habitually resident there throughout the period of 1 year ending with that date, or
  - (c) the respondent is resident there on that date.]

[<sup>F2</sup>(2A) If the application or part of it relates to a matter to which Article 18 of the 2007 Hague Convention applies, the court must not entertain the application or that part of it except where permitted by Article 18.]

(3) If, on an application under this paragraph, it appears to the court that—

    - (a) the applicant or any child of the family to whom the application relates is in immediate need of financial assistance, but
    - (b) it is not yet possible to determine what order, if any, should be made on the application,

the court may make an interim order.

(4) If, on an application under this paragraph, the applicant satisfies the court of a ground mentioned in sub-paragraph (1), the court may make one or more of the orders set out in paragraph 36.

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[<sup>F3</sup>(5) In this paragraph [<sup>F4</sup>“the 2007 Hague Convention” means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance concluded on 23 November 2007 at The Hague].]

#### Textual Amendments

- F1** Sch. 15 para. 34(2) substituted (31.12.2020) by [The Jurisdiction and Judgments \(Family\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/519\)](#), reg. 1(1), **Sch. para. 25(8)(a)(i)** (with reg. 8) (as amended by [S.I. 2020/1574](#), regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Sch. 15 para. 34(2A) inserted (31.12.2020) by [S.I. 2019/519](#), reg. 1(1), **Sch. para. 25(8)(a)(ii)** (as substituted by [The Jurisdiction, Judgments and Applicable Law \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1574\)](#), regs. 1, **5(3)(j)(v)**)
- F3** Sch. 15 para. 34(5) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, **Sch. 7 para. 16(8)(b)**
- F4** Words in Sch. 15 para. 34(5) substituted (31.12.2020) by [S.I. 2019/519](#), reg. 1(1), **Sch. para. 25(8)(a)(iii)** (as substituted by [The Jurisdiction, Judgments and Applicable Law \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1574\)](#), regs. 1, **5(3)(j)(v)**)

#### *Interim orders*

- 35 An interim order is an order requiring the respondent to make to the applicant, until the determination of the application, such periodical payments as the court thinks reasonable.

#### *Orders that may be made where failure to maintain established*

- 36 (1) The orders are—
- (a) an order that the respondent must make to the applicant such periodical payments for such term as may be specified;
  - (b) an order that the respondent must secure to the applicant, to the satisfaction of the court, such periodical payments for such term as may be specified;
  - (c) an order that the respondent must pay to the applicant such lump sum as may be specified;
  - (d) an order that the respondent must make such periodical payments for such term as may be specified—
    - (i) to such person as may be specified, for the benefit of the child to whom the application relates, or
    - (ii) to the child to whom the application relates;
  - (e) an order that the respondent must secure—
    - (i) to such person as may be specified for the benefit of the child to whom the application relates, or
    - (ii) to the child to whom the application relates,
 to the satisfaction of the court, such periodical payments for such term as may be specified;
  - (f) an order that the respondent must pay such lump sum as may be specified—
    - (i) to such person as may be specified for the benefit of the child to whom the application relates, or
    - (ii) to the child to whom the application relates.

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(2) In this Part “specified” means specified in the order.

*Particular provision that may be made by lump sum orders*

- 37 (1) An order under this Part for the payment of a lump sum may be made for the purpose of enabling any liabilities or expenses reasonably incurred in maintaining the applicant or any child of the family to whom the application relates before the making of the application to be met.
- (2) An order under this Part for the payment of a lump sum may—
- (a) provide for its payment by instalments of such amount as may be specified, and
  - (b) require the payment of the instalments to be secured to the satisfaction of the court.
- (3) Sub-paragraphs (1) and (2) do not restrict the power to make an order by virtue of paragraph 36(1)(c) or (f).

*Matters to which the court is to have regard on application under paragraph 34(1)(a)*

- 38 (1) This paragraph applies if an application under paragraph 34 is made on the ground mentioned in paragraph 34(1)(a).
- (2) In deciding—
- (a) whether the respondent has failed to provide reasonable maintenance for the applicant, and
  - (b) what order, if any, to make under this Part in favour of the applicant,
- the court must have regard to all the circumstances of the case including the matters mentioned in paragraph 16(2).
- (3) If an application is also made under paragraph 34 in respect of a child of the family who has not reached 18, the court must give first consideration to the welfare of the child while under 18.
- (4) Paragraph 16(2)(c) has effect as if for the reference in it to the breakdown of the civil partnership there were substituted a reference to the failure to provide reasonable maintenance for the applicant.

*Matters to which the court is to have regard on application under paragraph 34(1)(b)*

- 39 (1) This paragraph applies if an application under paragraph 34 is made on the ground mentioned in paragraph 34(1)(b).
- (2) In deciding—
- (a) whether the respondent has failed to provide, or to make a proper contribution towards, reasonable maintenance for the child of the family to whom the application relates, and
  - (b) what order, if any, to make under this Part in favour of the child,
- the court must have regard to all the circumstances of the case.
- (3) Those circumstances include—
- (a) the matters mentioned in paragraph 17(2)(a) to (e), and

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- (b) if the child of the family to whom the application relates is not the child of the respondent, the matters mentioned in paragraph 17(3).
- (4) Paragraph 16(2)(c) (as it applies by virtue of paragraph 17(2)(e)) has effect as if for the reference in it to the breakdown of the civil partnership there were substituted a reference to—
- (a) the failure to provide, or
  - (b) the failure to make a proper contribution towards,
- reasonable maintenance for the child of the family to whom the application relates.

*Restrictions on making orders under this Part*

- 40 The power to make an order under paragraph 36(1)(d), (e) or (f) is subject to paragraph 44(1) and (5) (restrictions on orders in favour of children who have reached 18).

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 102(8A) inserted by [2023 asp 3 s. 56\(2\)](#)
- s. 103(10) inserted by [2023 asp 3 s. 56\(5\)](#)
- s. 108(5) inserted by [2023 asp 3 s. 56\(8\)](#)
- s. 213(1A) inserted by [2013 c. 30 Sch. 2 para. 5\(2\)](#)