

SCHEDULES

SCHEDULE 1

Article 15(1).

FINANCIAL PROVISION FOR CHILDREN

Interpretation

1.—(1) In this Schedule “child” includes, in any case where an application is made under paragraph 3 or 7 in relation to a person who has reached the age of 18, that person.

[^{F1}(2) In this Schedule, except paragraphs 3 and 17, “parent” includes—

- (a) any party to a marriage (whether or not subsisting) in relation to whom the child concerned is a child of the family, and
- (b) any civil partner in a civil partnership (whether or not subsisting) in relation to whom the child concerned is a child of the family;

and for this purpose any reference to either parent or both parents shall be read as a reference to any parent of his and to all of his parents.]

(3) In this Schedule “^{F2}maintenance assessment” means^{F2} an assessment of maintenance made under the Child Support (Northern Ireland) Order 1991^{F3} and includes, except in circumstances prescribed for the purposes of the definition of that expression in Article 2(2) of that Order,^{F2} an interim maintenance assessment within the meaning of that Order.

F1 2004 c.33

F2 prosp. in pt. subst. by 2000 c. 4 (NI)

F3 1991 NI 23

Orders for financial relief against parents

2.—(1) On an application made by a parent or 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) if it is the High Court or a county court, make one or more of the orders mentioned in sub#paragraph (2);
- (b) if it is a court of summary jurisdiction, make one or both of the orders mentioned in heads (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,

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- 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 18;
 - (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.
- (7) Where a child is a ward of court, the High Court may exercise any of its powers under this Schedule even though no application has been made to it.

Orders for financial relief for persons over 18

- 3.—(1) If, on an application by a person who has reached the age of 18, it appears to the court—
- (a) that the applicant is, will be or (if an order were made under this 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) that there are special circumstances which justify the making of an order under this paragraph,
- the court may make one or both of the orders mentioned in sub-paragraph (2).
- (2) The orders are—
- (a) an order requiring either or both of the applicant's parents to pay to the applicant such periodical payments, for such term, as may be specified in the order;
 - (b) an order requiring either or both of the applicant's parents to pay to the applicant such lump sum as may be so specified.
- (3) An application may not be made under this paragraph by any person if, immediately before he reached the age of 16, a periodical payments order was in force with respect to him.

(4) No order shall be made under this paragraph at a time when the parents of the applicant are living with each other in the same household.

(5) An order under sub-paragraph (2)(a) 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.

(6) In sub-paragraph (3) “periodical payments order” means an order made under—

(a) this Schedule;

(b) Article 25 or 29 of the Matrimonial Causes (Northern Ireland) Order 1978^{F4}; or

(c) the Domestic Proceedings (Northern Ireland) Order 1980^{F5};

[^{F6}(e) Part 1 or 8 of Schedule 15 to the Civil Partnership Act 2004 (financial relief in the High Court or county court etc.);

(f) Schedule 16 to the 2004 Act (financial relief in court of summary jurisdiction etc.);]

for the making or securing of periodical payments.

(7) The powers conferred by this paragraph shall be exercisable at any time.

(8) Where the court makes an order under this paragraph it may while that order remains in force make further such orders.

F4 1978 NI 15

F5 1980 NI 5

F6 2004 c. 33

Duration of orders for financial relief

4.—(1) The term to be specified in an order for periodical payments made under paragraph 2(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 (8) or (10) 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) Head (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 head) 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 head.

(3) An order for periodical payments made under paragraph 2(2)(a) or 3(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 2(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.

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(5) An order for periodical payments made under paragraph 2(2)(a) or (b) in favour of a child to whom head (a) of sub-paragraph (2) applies shall cease to have effect in the event of his ceasing to receive instruction or undergo training as mentioned in that head.

(6) An order for periodical payments made under paragraph 3(2)(a) in favour of an applicant to whom head (a) of paragraph 3(1) applies shall cease to have effect in the event of his ceasing to receive instruction or undergo training as mentioned in that head.

(7) Where an order for periodical payments made under paragraph 2(2)(a) or (b) or paragraph 3(2)(a) ceases to have effect by virtue of sub-paragraph (5) or (6), the person to whom the periodical payments are directed by the order to be made shall give notice of the event mentioned in sub-paragraph (5) or (6) to the court; and any person failing without reasonable excuse to give such a notice shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(8) Where—

- (a) a^{F7} maintenance assessment (“the ^{F7} current assessment”) is in force with respect to a child; and
- (b) before the end of the period of six months beginning with the date on which the ^{F7} current assessment was made, an application is made for an order under paragraph 2(2)(a) or (b) for periodical payments in favour of that child,

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.

(9) For the purposes of sub-paragraph (8) “the earliest permitted date” is whichever is the later of—

- (a) the date six months before the application for the order was made; or
- (b) the date on which the ^{F7} current assessment took effect or, where successive ^{F7} maintenance assessments have been continuously in force with respect to that child, the first of ^{F7} those assessments took effect.

(10) Where—

- (a) a^{F7} maintenance assessment ceases to have effect^{F8} or is cancelled by or under any provision of the Child Support (Northern Ireland) Order 1991^{F9}; and
- (b) before the end of the period of six months beginning with the relevant date, an application is made for an order for periodical payments under paragraph 2(2)(a) or (b) in favour of a child with respect to whom that ^{F7} maintenance assessment was in force immediately before it ceased to have effect^{F8} or was cancelled,

the term to be specified in any such order, or in any interim order under paragraph 11, made on that application may begin with the relevant date or any later date.

(11) In sub-paragraph (10)(b) “the relevant date” means—

- (a) where the ^{F7} maintenance assessment ceased to have effect, the date on which it so ceased,^{F8} and
- (b) where the ^{F7} maintenance assessment was cancelled, the later of—
 - (i) the date on which the person who cancelled it did so; or
 - (ii) the date from which the cancellation first had effect.

F7 prosp. in pt. subst. by 2000 c. 4 (NI)

F8 prosp. in pt. rep. by 2000 c. 4 (NI)

F9 1991 NI 23

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

5.—(1) In deciding whether to exercise its powers under paragraph 2 or 3, 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 2 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 2 against a person on the basis that he is not the father of the child, it shall record in the order that the order is made on that basis.

(4) The persons referred to in sub-paragraph (1) are—

- (a) in relation to a decision whether to exercise its powers under paragraph 2, any parent of the child;
- (b) in relation to a decision whether to exercise its powers under paragraph 3, 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.

[^{F10}(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.]

F10 Sch. 1 para. 5(5) inserted (6.4.2009 for certain purposes otherwise 1.9.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68(2), Sch. 6 para. 77(2); S.I. 2009/479, art. 6(1)(e)(f)(2) (with transitional provisions in art.7, Sch. 1)

Provisions relating to lump sums

6.—(1) Without prejudice to the generality of paragraph 2, 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 court of summary jurisdiction under paragraph 2 or 3 shall not exceed £1000 or such larger amount as the Lord

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Chancellor may^{F11}, after consultation with the Lord Chief Justice,] by order fix for the purposes of this sub-paragraph.

(3) The power of the court under paragraph 2 or 3 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 court of summary jurisdiction, 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 court of summary jurisdiction 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 Order.

(5) An order made under paragraph 2 or 3 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.

F11 Words in [Sch. 1 para. 6\(2\)](#) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15(2), 148(1), [Sch. 5 para. 100](#); [S.I. 2006/1014](#), [art. 2\(a\)](#), [Sch. 1 para. 12\(b\)](#)

Variation, etc., of orders for periodical payments

7.—(1) In exercising its powers under paragraph 2 or 3 to vary or discharge an order for the making or securing of periodical payments the court shall have regard to all the circumstances, including any change in any of the matters to which the court was required to have regard when making the order.

(2) The power of the court under paragraph 2 or 3 to vary an order for the making or securing of periodical payments shall include power to suspend any provision of the order temporarily and to revive any provision so suspended.

(3) Where on an application under paragraph 2 or 3 for the variation or discharge of an order for the making or securing of periodical payments the court varies the payments required to be made under that order, the court may provide that the payments as so varied shall be made from such date as the court may specify, except that, subject to sub-paragraph (11), the date shall not be earlier than the date of the making of the application.

(4) An application for the variation of an order made under paragraph 2 for the making or securing of periodical payments to or for the benefit of a child may, if the child has reached the age of 16, be made by the child himself.

(5) Where an order for the making or securing of periodical payments made under paragraph 2 ceases to have effect on the date on which the child reaches the age of 16, or at any time after that date but before or on the date on which he reaches the age of 18, the child may apply to the court which made the order for an order for its revival.

(6) If on such an application it appears to the court that—

- (a) the child is, will be or (if an order were made under this sub-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 under this sub-paragraph,

the court shall have power by order to revive the order from such date as the court may specify, not being earlier than the date of the making of the application.

(7) Any order which is revived by an order under sub-paragraph (6) may be varied or discharged under that sub-paragraph on the application of any person by whom or to whom payments are required to be made under the revived order.

(8) An order for the making or securing of periodical payments made under paragraph 2 may be varied or discharged, after the death of either parent, on the application of a guardian of the child concerned.

(9) An order for the making or securing of periodical payments made under paragraph 2 which is revived under sub-paragraph (6) in favour of a child to whom head (a) of that sub-paragraph applies shall cease to have effect in the event of his ceasing to receive instruction or undergo training as mentioned in that head.

(10) Where an order for the making or securing of periodical payments made under paragraph 2 ceases to have effect by virtue of sub-paragraph (9), the person to whom the periodical payments are directed by the order to be made shall give notice of the event mentioned in that sub-paragraph to the court; and any person failing without reasonable excuse to give such a notice shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(11) Sub-paragraph (12) applies where—

- (a) an order under paragraph 2(2)(a) or (b) for the making or securing of periodical payments in favour of more than one child (“the order”) is in force;
- (b) the order requires payments specified in it to be made to or for the benefit of more than one child without apportioning those payments between them;
- (c) a^{F12} maintenance assessment (“^{F12}the assessment”) is made with respect to one or more, but not all, of the children in whose favour those payments are to be made; and
- (d) an application is made, before the end of the period of six months beginning with the date on which^{F12} the assessment was made, for the variation or discharge of the order.

(12) Where this sub-paragraph applies, the court may, in exercise of its powers under paragraph 2 to vary or discharge the order, direct that the variation or discharge shall take effect from the date on which^{F12} the assessment took effect or any later date.

F12 prosp. in pt. subst. by 2000 c. 4 (NI)

Variation of orders for periodical payments etc. made by court of summary jurisdiction

8.—(1) Subject to sub-paragraphs (7) and (8), the power of a court of summary jurisdiction—

- (a) under paragraph 2 or 3 to vary an order for the making of periodical payments, or
- (b) under paragraph 6(6) to vary an order for the payment of a lump sum by instalments,

shall include power, if the court is satisfied that payment has not been made in accordance with the order, to exercise one of its powers under sub-paragraphs (a) to (d) of Article 85(3) of the Magistrates' Courts (Northern Ireland) Order 1981^{F13}.

(2) In any case where—

- (a) a court of summary jurisdiction has made an order under this Schedule for the making of periodical payments or for the payment of a lump sum by instalments, and

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- (b) payments under the order are required to be made by any method of payment falling within Article 85(7) of the Magistrates' Courts (Northern Ireland) Order 1981 (standing order, etc.),

any person entitled to make an application under this Schedule for the variation of the order (in this paragraph referred to as “the applicant”) may apply to the clerk of petty sessions for the order to be varied as mentioned in sub-paragraph (3).

(3) Subject to sub-paragraph (5), where an application is made under sub-paragraph (2), the clerk, after serving written notice of the application on any interested party and allowing that party, within the period of 14 days from the date of the serving of that notice, an opportunity to make written representations, may vary the order to provide that payments under the order shall be made to the collecting officer.

(4) The clerk may proceed with an application under sub-paragraph (2) notwithstanding that any such interested party as is referred to in sub-paragraph (3) has not received written notice of the application.

(5) Where an application has been made under sub-paragraph (2), the clerk may, if he considers it inappropriate to exercise his power under sub-paragraph (3), refer the matter to the court which, subject to sub-paragraphs (7) and (8), may vary the order by exercising one of its powers under sub-paragraphs (a) to (d) of Article 85(3) of the Magistrates' Courts (Northern Ireland) Order 1981.

(6) Paragraph (5) of Article 85 of the Magistrates' Courts (Northern Ireland) Order 1981 (power of court to order that account be opened) shall apply for the purposes of sub-paragraphs (1) and (5) as it applies for the purposes of that Article.

(7) Before varying the order by exercising one of its powers under sub-paragraphs (a) to (d) of Article 85(3) of the Magistrates' Courts (Northern Ireland) Order 1981, the court shall have regard to any representations made by the parties to the application.

(8) If the court does not propose to exercise its power under sub-paragraph (c) or (d) of paragraph (3) of Article 85 of the Magistrates' Courts (Northern Ireland) Order 1981, the court shall, unless upon representations expressly made in that behalf by the applicant for the order it is satisfied that it is undesirable to do so, exercise its power under sub-paragraph (b) of that paragraph.

(9) None of the powers of the court, or of the clerk of petty sessions, conferred by this paragraph shall be exercisable in relation to an order under this Schedule for the making of periodical payments, or for the payment of a lump sum by instalments, which is not a qualifying maintenance order (within the meaning of Article 85 of the Magistrates' Courts (Northern Ireland) Order 1981).

(10) In sub-paragraphs (3) and (4) “interested party”, in relation to an application made by the applicant under sub-paragraph (2), means a person who would be entitled to be a party to an application for the variation of the order made by the applicant under any other provision of this Schedule if such an application were made.

F13 1981 NI 26

Variation of orders for secured periodical payments after death of parent

9.—(1) Where the parent liable to make payments under a secured periodical payments order has died, the persons who may apply for the variation or discharge of the order shall include the personal representatives of the deceased parent.

(2) No application for the variation of the order shall, except with the permission of the court, be made after the end of the period of six months from the date on which representation in regard to the estate of that parent is first taken out.

(3) The personal representatives of a deceased person against whom a secured periodical payments order was made shall not be liable for having distributed any part of the estate of the

deceased after the end of the period of six months referred to in sub-paragraph (2) on the ground that they ought to have taken into account the possibility that the court might permit an application for variation to be made after that period by the person entitled to payments under the order.

(4) Sub-paragraph (3) shall not prejudice any power to recover any part of the estate so distributed arising by virtue of the variation of an order in accordance with this paragraph.

(5) Where an application to vary a secured periodical payments order is made after the death of the parent liable to make payments under the order, the circumstances to which the court is required to have regard under paragraph 7(1) shall include the changed circumstances resulting from the death of the parent.

(6) In considering for the purposes of sub-paragraph (2) the question when representation was first taken out, a grant limited to part of the estate of the deceased shall be left out of account unless a grant limited to the remainder of the estate has previously been made or is made at the same time.

(7) In this paragraph “secured periodical payments order” means an order for secured periodical payments under paragraph 2(2)(b).

Financial relief under other statutory provisions

10.—(1) This paragraph applies where a residence order is made with respect to a child at a time when there is in force an order (“the financial relief order”) made under any statutory provision other than this Order and requiring a person to contribute to the child's maintenance.

(2) Where this paragraph applies, the court may, on the application of—

- (a) any person required by the financial relief order to contribute to the child's maintenance; or
- (b) any person in whose favour a residence order with respect to the child is in force,

make an order revoking the financial relief order, or varying it by altering the amount of any sum payable under that order or by substituting the applicant for the person to whom any such sum is otherwise payable under that order.

Interim orders

11.—(1) Where an application is made under paragraph 2 or 3 the court may, at any time before it disposes of the application, make an interim order—

- (a) requiring either or both parents to make such periodical payments, at such times and for such term as the court thinks fit; and
- (b) giving any direction which the court thinks fit.

(2) An interim order made under this paragraph may provide for payments to be made from such date as the court may specify, except that, subject to paragraph 4(8) and (10), the date shall not be earlier than the date of the making of the application under paragraph 2 or 3.

(3) An interim order made under this paragraph shall cease to have effect when the application is disposed of or, if earlier, on the date specified for the purposes of this paragraph in the interim order.

(4) An interim order in which a date has been specified for the purposes of sub-paragraph (3) may be varied by substituting a later date.

Alteration of maintenance agreements

12.—(1) In this paragraph and in paragraph 13 “maintenance agreement” means any agreement in writing made with respect to a child (including an agreement made before the commencement of this paragraph) which—

- (a) is or was made between the father and mother of the child; and

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(b) contains provision with respect to the making or securing of payments, or the disposition or use of any property, for the maintenance or education of the child,
and any such provisions are in this paragraph and paragraph 13 referred to as “financial arrangements”.

(2) [^{F14}Subject to sub-paragraph (2A), where] a maintenance agreement is for the time being subsisting and each of the parties to the agreement is for the time being either domiciled or resident in Northern Ireland, then either party may apply to the court for an order under this paragraph.

[^{F15}(2A) If an application or part of an application relates to a matter [^{F16}in relation to which Article 18 of the 2007 Hague Convention applies, the court may not entertain the application or that part of it except where permitted by Article 18].

(2B) In sub-paragraph (2A), [^{F17}“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].]

(3) If the court to which the application is made is satisfied either—

(a) that, by reason of a change in the circumstances in the light of which any financial arrangements contained in the agreement were made (including a change foreseen by the parties when making the agreement), the agreement should be altered so as to make different financial arrangements; or

(b) that the agreement does not contain proper financial arrangements with respect to the child,
then that court may by order make such alterations in the agreement by varying or revoking any financial arrangements contained in it as may appear to the court to be just having regard to all the circumstances.

(4) If the maintenance agreement is altered by an order under this paragraph, the agreement shall have effect thereafter as if the alteration had been made by agreement between the parties and for valuable consideration.

(5) Where a court decides to make an order under this paragraph altering the maintenance agreement—

(a) by inserting provision for the making or securing by one of the parties to the agreement of periodical payments for the maintenance of the child; or

(b) by increasing the rate of periodical payments required to be made or secured by one of the parties for the maintenance of the child,

then, in deciding the term for which under the agreement as altered by the order the payments or (as the case may be) the additional payments attributable to the increase are to be made or secured for the benefit of the child, the court shall apply the provisions of sub-paragraphs (1) and (2) of paragraph 4 as if the order were an order under paragraph 2(2)(a) or (b).

(6) A court of summary jurisdiction shall not entertain an application under sub-paragraph (2) unless both the parties to the agreement are resident in Northern Ireland ^{F18} ..., and shall not have power to make any order on such an application except—

(a) in a case where the agreement contains no provision for periodical payments by either of the parties, an order inserting provision for the making by one of the parties of periodical payments for the maintenance of the child;

(b) in a case where the agreement includes provision for the making by one of the parties of periodical payments, an order increasing or reducing the rate of, or terminating, any of those payments.

(7) Nothing in this paragraph affects any power of a court before which any proceedings between the parties to a maintenance agreement are brought under any other statutory provision to make an

order containing financial arrangements or any right of either party to apply for such an order in such proceedings.

[^{F19}(8) 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, the reference in sub-paragraph (1)(a) to the child's father is a reference to the woman who is a parent of the child by virtue of that section.]

- F14** Words in Sch. 1 para. 12(2) substituted (18.6.2011) by [Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, **Sch. 7 para. 23(2)(a)**
- F15** Sch. 1 para. 12(2A)(2B) inserted (18.6.2011) by [Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, **Sch. 7 para. 23(2)(b)**
- F16** Words in Sch. 1 para. 12(2A) 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. 23(2)(a)** (as substituted by [S.I. 2020/1574](#), regs. 1, **5(3)(i)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F17** Words in Sch. 1 para. 12(2B) 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. 23(2)(b)** (as substituted by [S.I. 2020/1574](#), regs. 1, **5(3)(i)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F18** Words in Sch. 1 para. 12(6) repealed (31.10.2016) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 1 para. 105\(2\)](#), **Sch. 9 Pt. 1** (with [Sch. 8 para. 1](#)); [S.R. 2016/387](#), art. 2(k)(m) (with art. 3)
- F19** Sch. 1 para. 12(8) inserted (6.4.2009 for certain purposes otherwise 1.9.2009) by [Human Fertilisation and Embryology Act 2008 \(c. 22\)](#), ss. 56, 68(2), **Sch. 6 para. 77(3)**; [S.I. 2009/479](#), **art. 6(1)(e)(f)(2)** (with transitional provisions in [art. 7](#), [Sch. 1](#))

13.—(1) Where a maintenance agreement provides for the continuation, after the death of one of the parties, of payments for the maintenance of a child and that party dies domiciled in Northern Ireland, the surviving party or the personal representatives of the deceased party may apply to the High Court or a county court for an order under paragraph 12.

(2) If a maintenance agreement is altered by a court on an application under this paragraph, the agreement shall have effect thereafter as if the alteration had been made, immediately before the death, by agreement between the parties and for valuable consideration.

(3) An application under this paragraph shall not, except with leave of the High Court or a county court, be made after the end of the period of six months from the day on which representation in regard to the estate of the deceased is first taken out.

(4) In considering for the purposes of sub-paragraph (3) the question when representation was first taken out, a grant limited to part of the estate of the deceased shall be left out of account unless a grant limited to the remainder of the estate has previously been made or is made at the same time.

(5) A county court shall not entertain an application under this paragraph, or an application for leave to make an application under this paragraph, unless it would have jurisdiction to hear and determine proceedings for an order under Article 4 of the Inheritance (Provision for Family and Dependents) (Northern Ireland) Order 1979^{F20} in relation to the deceased's estate by virtue of Article 24 of that Order.

(6) The provisions of this paragraph shall not render the personal representatives of the deceased liable for having distributed any part of the estate of the deceased after the expiry of the period of six months referred to in sub-paragraph (3) on the ground that they ought to have taken into account the possibility that a court might grant leave for an application by virtue of this paragraph to be made by the surviving party after that period.

(7) Sub-paragraph (6) shall not prejudice any power to recover any part of the estate so distributed arising by virtue of the making of an order in pursuance of this paragraph.

F20 1979 NI 8

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to *The Children (Northern Ireland) Order 1995*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

Notice of change of address

14.—(1) Any person for the time being under an obligation to make payments in pursuance of any order for the payment of money made by a court of summary jurisdiction under this Schedule shall give notice of any change of address to such person (if any) as may be specified in the order.

(2) Any person failing without reasonable excuse to give such a notice shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Direction for settlement of instrument by conveyancing counsel

15. Where the High Court or a county court decides to make an order under this Schedule for the securing of periodical payments or for the transfer or settlement of property, it may direct that the matter be referred to a conveyancing counsel appointed by the court to settle a proper instrument to be executed by all necessary parties.

Jurisdiction ^{F21}...

F21 Words in Sch. 1 para. 16 heading omitted (31.12.2020) by [The Jurisdiction and Judgments \(Family\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/519\)](#), reg. 1(1), [Sch. para. 23\(2A\)](#) (as inserted by S.I. 2019/836, regs. 1, [2\(3\)\(a\)](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))

[^{F22}16.—(1) The court has jurisdiction in relation to an application under paragraph 2 in respect of a child if any of the following persons are habitually resident or domiciled in Northern Ireland on the date of the application—

- (a) a parent of the child;
- (b) a guardian of the child;
- (c) a person in whose favour a residence order is in force with respect to the child;
- (d) the child.

(2) The court has jurisdiction in relation to an application under paragraph 3 if the applicant or a parent against whom the order is sought or made is habitually resident or domiciled in Northern Ireland on the date of the application.]

F22 Sch. 1 para. 16 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. 23\(3\)](#) (as substituted by S.I. 2019/836, regs. 1, [2\(3\)\(b\)](#)) (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, [5\(2\)](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))

Contribution by an authority to child's maintenance

17.—(1) Where a child lives, or is to live, with a person as the result of a residence order, an authority may make contributions to that person towards the cost of the accommodation and maintenance of the child.

(2) Sub-paragraph (1) does not apply where the person with whom the child lives, or is to live, is a parent of the child or the husband or wife^{F23} or civil partner] of a parent of the child.

F23 2004 c. 33

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Children (Northern Ireland) Order 1995. Any changes that have already been made by the team appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to :

- Sch. 1 para. 12(2A) omitted by [S.I. 2019/519 Sch. para. 23\(2\)\(b\)](#) (This amendment not applied to legislation.gov.uk. S.I. 2019/519, Sch. para. 23(2) substituted (17.12.2020) by S.I. 2020/1574, regs. 1, 5(3)(i))
- Sch. 1 para. 12(2B) omitted by [S.I. 2019/519 Sch. para. 23\(2\)\(c\)](#) (This amendment not applied to legislation.gov.uk. S.I. 2019/519, Sch. para. 23(2) substituted (17.12.2020) by S.I. 2020/1574, regs. 1, 5(3)(i))
- Sch. 1 para. 2(6) words inserted by [2022 c. 18 \(N.I.\) Sch. 3 para. 43\(a\)\(ii\)](#)
- Sch. 1 para. 7(8) words inserted by [2022 c. 18 \(N.I.\) Sch. 3 para. 43\(b\)](#)
- Sch. 1 para. 10(1) words inserted by [2022 c. 18 \(N.I.\) Sch. 3 para. 43\(c\)](#)
- Sch. 1 para. 10(2)(b) words inserted by [2022 c. 18 \(N.I.\) Sch. 3 para. 43\(c\)](#)
- Sch. 1 para. 12(2) words omitted by [S.I. 2019/519 Sch. para. 23\(2\)\(a\)](#) (This amendment not applied to legislation.gov.uk. S.I. 2019/519, Sch. para. 23(2) substituted (17.12.2020) by S.I. 2020/1574, regs. 1, 5(3)(i))
- Sch. 1 para. 2(1) words substituted by [2022 c. 18 \(N.I.\) Sch. 3 para. 43\(a\)\(i\)](#)
- Sch. 1 para. 12(2A) words substituted by S.I. 2019/519, Sch. para. 23(2)(a) (as substituted) by [S.I. 2019/1338 reg. 3\(3\)\(i\)](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- Sch. 1 para. 12(2B) words substituted by S.I. 2019/519, Sch. para. 23(2)(b) (as substituted) by [S.I. 2019/1338 reg. 3\(3\)\(i\)](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)

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

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

- art. 45(2)(e) words repealed by [2022 c. 18 \(N.I.\) Sch. 5](#)
- art. 7(2A)(ba) substituted for word by [2009 c. 24 Sch. 6 para. 26\(2\)](#)
- art. 7(2B)(ba) substituted for word by [2009 c. 24 Sch. 6 para. 26\(3\)](#)
- art. 8(4)(ha) applied by [2022 c. 18 \(N.I.\) s. 116](#)
- art. 10(5A) inserted by [2022 c. 18 \(N.I.\) Sch. 3 para. 26\(b\)](#)
- art. 10(7A) inserted by [2022 c. 18 \(N.I.\) Sch. 3 para. 26\(c\)](#)
- art. 14A?-14F and cross-heading inserted by [2022 c. 18 \(N.I.\) s. 119\(1\)](#)
- art. 14A(7) applied (with modifications) for specified purposes by [2022 c. 18 \(N.I.\) s. 26\(6\)](#)
- art. 14C(1)(b) applied (with modifications) for specified purposes by [2022 c. 18 \(N.I.\) s. 26\(7\)\(a\)](#)
- art. 14C(3)(4) excluded by [2022 c. 18 \(N.I.\) s. 26\(7\)\(b\)](#)
- art. 18(4A) inserted by [2022 c. 18 \(N.I.\) s. 120\(1\)](#)
- art. 18(6)-(6C) substituted for art. 18(6) by [2022 c. 18 \(N.I.\) s. 121\(1\)](#)
- art. 22(3)(aa) inserted by [2022 c. 18 \(N.I.\) Sch. 3 para. 29](#)
- art. 26(1A) inserted by [2022 c. 18 \(N.I.\) s. 122\(1\)](#)
- art. 26A inserted by [2022 c. 18 \(N.I.\) s. 123](#)

- art. 27(7A) inserted by 2022 c. 18 (N.I.) s. 125(3)
- art. 27(8)(c) and word added by 2022 c. 18 (N.I.) s. 122(2)(b)
- art. 27(9A)-(9D) inserted by 2022 c. 18 (N.I.) s. 124
- art. 28(4) inserted by 2022 c. 18 (N.I.) s. 125(4)
- art. 28A inserted by 2022 c. 18 (N.I.) s. 126
- art. 28B inserted by 2022 c. 18 (N.I.) s. 127
- art. 33(9) added by 2022 c. 18 (N.I.) Sch. 3 para. 31(c)
- art. 34E(1)(d) and word inserted by 2022 c. 18 (N.I.) Sch. 3 para. 32(a)(iii)
- art. 34E(3)(4) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 32(b)
- art. 34F(1)(aa) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 33(a)(i)
- art. 34F(1A)-(1D) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 33(b)
- art. 34G inserted by 2022 c. 18 (N.I.) s. 129
- art. 34AA inserted by 2022 c. 18 (N.I.) s. 128(1)
- art. 34DA inserted by 2022 c. 18 (N.I.) s. 128(2)
- art. 34DB34DC inserted by 2022 c. 18 (N.I.) s. 128(3)
- art. 35(1)-(1B) substituted for art. 35(1) by 2022 c. 18 (N.I.) Sch. 3 para. 34(a)
- art. 35(5)(za) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 34(c)
- art. 35D(1)(aa)(ab) inserted by 2022 c. 18 (N.I.) s. 128(4)
- art. 35D(1A) inserted by 2022 c. 18 (N.I.) s. 130(1)
- art. 45(2)(e)(i)(ii) inserted by 2022 c. 18 (N.I.) s. 131(a)
- art. 45(2)(f)(i)-(iii) inserted by 2022 c. 18 (N.I.) s. 131(b)
- art. 45(3A)-(3C) inserted by 2022 c. 18 (N.I.) s. 130(4)
- art. 45(4A) inserted by 2022 c. 18 (N.I.) s. 130(6)
- art. 45(5A) inserted by 2022 c. 18 (N.I.) s. 130(7)
- art. 45A?? inserted by 2022 c. 18 (N.I.) s. 132
- art. 50A?? inserted by 2022 c. 18 (N.I.) s. 134(1)
- art. 53(1)(ba) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 38(b)
- art. 53(6A) inserted by 2022 c. 18 (N.I.) s. 135(3)
- art. 53(8)(za) inserted by 2022 c. 18 (N.I.) s. 135(4)
- art. 57(3A) inserted by 2022 c. 18 (N.I.) s. 119(3)
- art. 60(6)(ha) inserted by 2022 c. 18 (N.I.) s. 138
- art. 66(5A) inserted by 2022 c. 18 (N.I.) s. 120(3)
- art. 107(7)(c) added by 2022 c. 18 (N.I.) s. 139(4)
- art. 108(2A) inserted by 2022 c. 18 (N.I.) s. 140(3)
- art. 108(3)(c) and word added by 2022 c. 18 (N.I.) s. 140(4)(c)
- art. 112A inserted by 2022 c. 18 (N.I.) s. 141
- art. 159(1)(c) and word added by 2022 c. 18 (N.I.) s. 119(4)(b)
- art. 165(2)(k) inserted by 2011 c. 24 (N.I.) s. 95(3)
- art. 170(2)-(9A) modified by 2022 c. 18 (N.I.) s. 105(3)
- art. 170(9A) inserted by 2022 c. 18 (N.I.) s. 142
- art. 179(5A) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 42
- art. 181(1) art. 181 renumbered as art. 181 (1) by 2022 c. 18 (N.I.) s, 143(3)
- art. 181(1) words substituted by 2022 c. 18 (N.I.) s. 143(4)
- art. 181(2) added by 2022 c. 18 (N.I.) s. 143(5)
- art. 183(2A) inserted by 2022 c. 18 (N.I.) s. 130(8)