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## SCHEDULES

### SCHEDULE 5

#### [<sup>F1</sup>FINANCIAL RELIEF: PROVISION CORRESPONDING TO PROVISION MADE BY PART 2 OF THE MATRIMONIAL CAUSES ACT 1973]

##### Textual Amendments

- F1** Sch. 5 title substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 177](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

### PART 10

#### COMMENCEMENT OF CERTAIN PROCEEDINGS AND DURATION OF CERTAIN ORDERS

##### *Commencement of proceedings for ancillary relief, etc.*

- 46 (1) Sub-paragraph (2) applies if an application for a dissolution, nullity or separation order has been made.
- (2) Subject to sub-paragraph (3), proceedings for—
- (a) an order under Part 1 (financial provision on dissolution etc.),
  - (b) a property adjustment order, or
  - (c) an order under Part 8 (maintenance pending outcome of dissolution, nullity or separation proceedings),
- may be begun (subject to and in accordance with rules of court) at any time after the presentation of the application.
- (3) Rules of court may provide, in such cases as may be prescribed by the rules, that—
- (a) an application for any such relief as is mentioned in sub-paragraph (2) must be made in the application or response, and
  - (b) an application for any such relief which—
    - (i) is not so made, or
    - (ii) is not made until after the end of such period following the presentation of the application or filing of the response as may be so prescribed,may be made only with the leave of the court.

##### Commencement Information

- II** Sch. 5 para. 46 wholly in force at 5.12.2005; Sch. 5 para. 46 not in force at Royal Assent see s. 263; Sch. 5 para. 46(2) in force for certain purposes and Sch. 5 para. 46(3) in force at 15.4.2005 by [S.I. 2005/1112](#), [art. 2](#), [Sch. 1](#) and Sch. 5 para. 46 in force otherwise at 5.12.2005 by [S.I. 2005/3175](#), [art. 2\(1\)](#), [Sch. 1](#)

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*Duration of periodical and secured periodical payments orders for a civil partner*

- 47 (1) The court may specify in a periodical payments or secured periodical payments order in favour of a civil partner such term as it thinks fit, except that the term must not—
- (a) begin before the date of the making of an application for the order, or
  - (b) extend beyond the limits given in sub-paragraphs (2) and (3).
- (2) The limits in the case of a periodical payments order are—
- (a) the death of either civil partner;
  - (b) where the order is made on or after the making of a dissolution or nullity order, the formation of a subsequent civil partnership or marriage by the civil partner in whose favour the order is made.
- (3) The limits in the case of a secured periodical payments order are—
- (a) the death of the civil partner in whose favour the order is made;
  - (b) where the order is made on or after the making of a dissolution or nullity order, the formation of a subsequent civil partnership or marriage by the civil partner in whose favour the order is made.
- (4) In the case of an order made on or after the making of a dissolution or nullity order, sub-paragraphs (1) to (3) are subject to paragraphs 23(3) and 59(4).
- (5) If a periodical payments or secured periodical payments order in favour of a civil partner is made on or after the making of a dissolution or nullity order, the court may direct that that civil partner is not entitled to apply under paragraph 51 for the extension of the term specified in the order.
- (6) If—
- (a) a periodical payments or secured periodical payments order in favour of a civil partner is made otherwise than on or after the making of a dissolution or nullity order, and
  - (b) the civil partnership is subsequently dissolved or annulled but the order continues in force,
- the order ceases to have effect (regardless of anything in it) on the formation of a subsequent civil partnership or marriage by that civil partner, except in relation to any arrears due under it on the date of its formation.

*Subsequent civil partnership or marriage*

- 48 If after the making of a dissolution or nullity order one of the civil partners forms a subsequent civil partnership or marriage, that civil partner is not entitled to apply, by reference to the dissolution or nullity order, for—
- (a) an order under Part 1 in that civil partner's favour, or
  - (b) a property adjustment order,
- against the other civil partner in the dissolved or annulled civil partnership.

*Duration of continuing orders in favour of children,  
and age limit on making certain orders in their favour*

- 49 (1) Subject to sub-paragraph (5)—
- (a) no order under Part 1,

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- (b) no property adjustment order made by virtue of paragraph 7(1)(a) (transfer of property), and
  - (c) no order made under Part 9 (failure to maintain) by virtue of paragraph 41, is to be made in favour of a child who has reached 18.
- (2) The term to be specified in a periodical payments or secured periodical payments order in favour of a child may begin with—
  - (a) the date of the making of an application for the order or a later date, or
  - (b) a date ascertained in accordance with sub-paragraph (7) or (8).
- (3) The term to be specified in such an order—
  - (a) must not in the first instance extend beyond the date of the birthday of the child next following the child’s reaching the upper limit of the compulsory school age unless the court considers that in the circumstances of the case the welfare of the child requires that it should extend to a later date, and
  - (b) must not in any event, subject to sub-paragraph (5), extend beyond the date of the child’s 18th birthday.
- (4) Sub-paragraph (3)(a) must be read with section 8 of the Education Act 1996 (c. 56) (which applies to determine for the purposes of any enactment whether a person is of compulsory school age).
- (5) Sub-paragraphs (1) and (3)(b) do 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 either or both of those provisions, would be—
    - (i) receiving instruction at an educational establishment, or
    - (ii) undergoing training for a trade, profession or vocation,whether or not the child also is, will be or would be in gainful employment, or
  - (b) there are special circumstances which justify the making of an order without complying with either or both of sub-paragraphs (1) and (3)(b).
- (6) A periodical payments order in favour of a child, regardless of anything in the order, ceases to have effect on the death of the person liable to make payments under the order, except in relation to any arrears due under the order on the date of the death.
- (7) If—
  - (a) a maintenance calculation (“the current calculation”) is in force with respect to a child, and
  - (b) an application is made under this Schedule for a periodical payments or secured periodical payments order in favour of that child—
    - (i) in accordance with section 8 of the Child Support Act 1991 (c. 48), and
    - (ii) before the end 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.
- (8) “The earliest permitted date” is whichever is the later of—
  - (a) the date 6 months before the application is made, or

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- (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.
- (9) If—
- (a) a maintenance calculation ceases to have effect by or under any provision of the 1991 Act, and
  - (b) an application is made, before the end of 6 months beginning with the relevant date, for a periodical payments or secured periodical payments order in favour of a child with respect to whom that maintenance calculation was in force immediately before it ceased to have effect,
- the term to be specified in any such order made on that application may begin with the date on which that maintenance calculation ceased to have effect or any later date.
- (10) “The relevant date” means the date on which the maintenance calculation ceased to have effect.
- (11) In this paragraph “maintenance calculation” has the same meaning as it has in the 1991 Act by virtue of section 54 of the 1991 Act as read with any regulations in force under that section.

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

- C1** Sch. 5 para. 49(7)-(11) applied (with modifications) (5.12.2005) (temp.) by [The Civil Partnership \(Pensions, Social Security and Child Support\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2877\)](#), art. 2(5), **Sch. 5 para. 2(2)**

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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\(2\)](#)