
STATUTORY INSTRUMENTS

1978 No. 1045

Matrimonial Causes (Northern Ireland) Order 1978

PART III

**FINANCIAL RELIEF FOR PARTIES TO
MARRIAGE AND CHILDREN OF FAMILY**

Ancillary relief in connection with divorce proceedings, etc.

**[^{F1}Matters to which court is to have regard in deciding how to exercise its powers under
Articles 25 [^{F2}, 26, 26A and 26D]**

27.—(1) It shall be the duty of the court in deciding whether to exercise its powers under [^{F3}Article 25, or 26 [^{F4}, 26A or 26D]] and, if so, in what manner, to have regard to all the circumstances of the case, first consideration being given to the welfare while a minor of any child of the family who has not attained the age of 18.

(2) As regards the exercise of the powers of the court under Article 25(1)(a), (b) or (c) [^{F3}, 26 [^{F5}, 26A or 26D]] in relation to a party to the marriage, the court shall in particular have regard to the following matters—

- (a) the income, earning capacity, property and other financial resources which each of the parties to the marriage has or is likely to have in the foreseeable future, including in the case of earning capacity any increase in that capacity which it would in the opinion of the court be reasonable to expect a party to the marriage to take steps to acquire;
- (b) the financial needs, obligations and responsibilities which each of the parties to the marriage has or is likely to have in the foreseeable future;
- (c) the standard of living enjoyed by the family before the breakdown of the marriage;
- (d) the age of each party to the marriage and the duration of the marriage;
- (e) any physical or mental disability of either of the parties to the marriage;
- (f) the contributions which each of the parties has made or is likely in the foreseeable future to make to the welfare of the family, including any contribution by looking after the home or caring for the family;
- (g) the conduct of each of the parties, if that conduct is such that it would in the opinion of the court be inequitable to disregard it;
- (h) in the case of proceedings for divorce of nullity of marriage, the value to each of the parties to the marriage of any benefit ^{F6}. . . which, by reason of the dissolution or annulment of the marriage, that party will lose the chance of acquiring.

(3) As regards the exercise of the powers of the court under Article 25(1)(d), (e) or (f), (2) or (4) or 26 in relation to a child of the family, the court shall in particular have regard to the following matters—

- (a) the financial needs of the child;
 - (b) the income, earning capacity (if any), property and other financial resources of the child;
 - (c) any physical or mental disability of the child;
 - (d) the manner in which he was being and in which the parties to the marriage expected him to be educated or trained;
 - (e) the considerations mentioned in relation to the parties to the marriage in sub#paragraphs (a), (b), (c) and (e) of paragraph (2).
- (4) As regards the exercise of the powers of the court under Article 25(1)(d), (e) or (f), (2) or (4) or 26 against a party to a marriage in favour of a child of the family who is not the child of that party, the court shall also have regard—
- (a) to whether that party assumed any responsibility for the child's maintenance, and , if so, to the extent to which, and the basis upon which, that party assumed such responsibility and to the length of time for which that party discharged such responsibility;
 - (b) to whether in assuming and discharging such responsibility that party did so knowing that the child was not his or her own;
 - (c) to the liability of any other person to maintain the child.]

F1	1989 NI 4
F2	Words in art. 27 heading heading substituted (6.4.2011) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), s. 118(1), Sch. 5 para. 4(2) (with s. 73); S.R. 2011/108, art. 2(2), Sch.
F3	1999 NI 11
F4	Words in art. 27(1) substituted (6.4.2011) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), s. 118(1), Sch. 5 para. 4(3) (with s. 73); S.R. 2011/108, art. 2(2), Sch.
F5	Words in art. 27(2) substituted (6.4.2011) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), s. 118(1), Sch. 5 para. 4(3) (with s. 73); S.R. 2011/108, art. 2(2), Sch.
F6	1995 NI 22

Changes to legislation:

There are currently no known outstanding effects for the Matrimonial Causes (Northern Ireland) Order 1978, Section 27.