
STATUTORY INSTRUMENTS

1978 No. 1045

Matrimonial Causes (Northern Ireland) Order 1978

PART III

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

Variation, discharge and enforcement of certain orders, etc.

Orders for repayment in certain cases of sums paid under certain orders

35.—(1) Where on an application made under this Article in relation to an order to which this Article applies it appears to the court that by reason of—

- (a) a change in the circumstances of the person entitled to, or liable to make, payments under the order since the order was made, or
- (b) the changed circumstances resulting from the death of the person so liable,

the amount received by the person entitled to payments under the order in respect of a period after those circumstances changed or after the death of the person liable to make payments under the order, as the case may be, exceeds the amount which the person so liable or his or her personal representatives should have been required to pay, the court may order the respondent to the application to pay to the applicant such sum, not exceeding the amount of the excess, as the court thinks just.

(2) This Article applies to the following orders, that is to say—

- (a) any order for maintenance pending suit and any interim order for maintenance;
- (b) any periodical payments order; and
- (c) any secured periodical payments order.

(3) An application under this Article may be made by the person liable to make payments under an order to which this Article applies or his or her personal representatives and may be made against the person entitled to payments under the order or her or his personal representatives.

(4) An application under this Article may be made in proceedings in the High Court for—

- (a) the variation or discharge of the order to which this Article applies, or
- (b) leave to enforce, or the enforcement of, the payment of arrears under that order;

but when not so made shall be made to a county court, ^{F1}....

(5) The jurisdiction conferred on a county court by this Article shall be exercisable notwithstanding that by reason of the amount claimed in the application the jurisdiction would not but for this paragraph be exercisable by a county court.

(6) An order under this Article for the payment of any sum may provide for the payment of that sum by instalments of such amount as may be specified in the order.

Changes to legislation: *There are currently no known outstanding effects for the Matrimonial Causes (Northern Ireland) Order 1978, Section 35. (See end of Document for details)*

F1 Words in art. 35(4) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 76(2), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

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