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STATUTORY INSTRUMENTS

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**1978 No. 1045**

**Matrimonial Causes (Northern Ireland) Order 1978**

**PART III**

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

*Additional provisions with respect to financial provision and property adjustment orders*

**Duration of continuing financial provision orders in favour of party to marriage, and effect of remarriage<sup>[F1]</sup> or formation of civil partnership]**

**30.**—(1) <sup>[F2]</sup>Subject in the case of an order made on or after the grant of a decree of divorce or nullity of marriage to the provisions of Articles 27A(2) and 33(7), the term to be specified in a periodical payments or secured periodical payments order in favour of a party to a marriage shall be such term as the court thinks fit, except that the term shall not begin before or extend beyond the following limits], that is to say—

- (a) in the case of a periodical payments order, the term shall begin not earlier than the date of the making of an application for the order, and shall be so defined as not to extend beyond the death of either of the parties to the marriage or, where the order is made on or after the grant of a decree of divorce or nullity of marriage, the remarriage of<sup>[F1]</sup>, or formation of a civil partnership by,] the party in whose favour the order is made; and
- (b) in the case of a secured periodical payments order, the term shall begin not earlier than the date of the making of an application for the order, and shall be so defined as not to extend beyond the death or, where the order is made on or after the grant of such a decree, the remarriage of<sup>[F1]</sup>, or formation of a civil partnership by,] the party in whose favour the order is made.

<sup>[F2]</sup>(1A) Where a periodical payments or secured periodical payments order in favour of a party to a marriage is made on or after the grant of a decree of divorce or nullity of marriage, the court may direct that that party shall not be entitled to apply under Article 33 for the extension of the term specified in the order]

(2) Where a periodical payments or secured payments order in favour of a party to a marriage is made otherwise than on or after the grant of a decree of divorce or nullity of marriage, and the marriage in question is subsequently dissolved or annulled but the order continues in force, the order shall, notwithstanding anything in it, cease to have effect on the remarriage of<sup>[F1]</sup>, or formation of a civil partnership by,] that party, except in relation to any arrears due under it on the date of the remarriage<sup>[F1]</sup> or formation of the civil partnership].

(3) If after the grant of a decree dissolving or annulling a marriage either party to that marriage remarries<sup>[F2]</sup> whether at any time before or after the commencement of this Article]<sup>[F1]</sup> or forms a civil partnership], that party shall not be entitled to apply, by reference to the grant of that decree,

for a financial provision order in his or her favour, or for a property adjustment order, against the other party to that marriage.

<b>F1</b>	2004 c. 33
<b>F2</b>	1989 NI 4

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

**31.**—(1) Subject to paragraph (3), no financial provision order and no order for a transfer of property under Article 26(1)(a) shall be made in favour of a child who has attained the age of 18.

(2) The term to be specified in a periodical payments or secured periodical payments order 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<sup>F3</sup> or a date ascertained in accordance with paragraphs (5) or (7)] but—

- (a) shall not in the first instance extend beyond the date of the birthday of the child next following his attaining the upper limit of the compulsory school age (that is to say, the age that is for the time being that limit by virtue of Article 36 of the Education and Libraries (Northern Ireland) Order 1972 )<sup>F4</sup> 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) shall not in any event, subject to paragraph (3), extend beyond the date of the child's eighteenth birthday.

(3) Paragraph (1), and sub-paragraph (b) of paragraph (2), 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 either or both of those provisions would be, receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not he is also, or will also be, in gainful employment; or
- (b) there are special circumstances which justify the making of an order without complying with either or both of those provisions.

(4) Any periodical payments order in favour of a child shall, notwithstanding anything in the order, cease 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.

<sup>F3</sup>(5) Where—

- (a) <sup>F5</sup> maintenance assessment ( “the <sup>F5</sup>current assessment”) is in force with respect to a child; and
- (b) before the end of the period of 6 months beginning with the date on which the current assessment was made, an application is made under this Part for a periodical payments or secured periodical payments order 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.

(6) For the purposes of paragraph (5), ( “the earliest permitted date” is the later of—

- (a) the date six months before the application for the order was made; or
- (b) the date on which the <sup>F5</sup> current assessment took effect or, where successive <sup>F5</sup> maintenance assessments have been continuously in force with respect to that child, the first of <sup>F5</sup> those assessments took effect.

(7) Where—

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**Changes to legislation:** There are currently no known outstanding effects for the Matrimonial Causes (Northern Ireland) Order 1978, Cross Heading: Additional provisions with respect to financial provision and property adjustment orders. (See end of Document for details)

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- (a) a<sup>F5</sup> maintenance assessment ceases to have effect<sup>F6</sup> or is cancelled by or under any provision of the Child Support (Northern Ireland) Order 1991; and
- (b) before the end of the period of 6 months beginning with the relevant date an application is made for a periodical payments or secured periodical payments order in favour of a child with respect to whom that<sup>F5</sup> maintenance assessment was in force immediately before it ceased to have effect<sup>F6</sup> or was cancelled,

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

(8) In paragraph (7) “the relevant date” means—

- (a) where the<sup>F5</sup> maintenance assessment ceased to have effect, the date on which it so ceased,<sup>F6</sup> and
- <sup>F6</sup>(b) where the<sup>F5</sup> 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.]

<b>F3</b>	SR 1993/98
<b>F4</b>	1989 NI 4
<b>F5</b>	prosp. in pt. subst. by 2000 c. 4 (NI)
<b>F6</b>	prosp. in pt. rep. by 2000 c. 4 (NI)

### **Direction for settlement of instrument for securing payments or effecting property adjustment**

**32.** Where the court decides to make a financial provision order requiring any payments to be secured or a property adjustment order, or where it gives directions for the disposal of any property,—

- (a) it may direct that the matter be referred to a conveyancing counsel appointed by the court for him to settle a proper instrument to be executed by all necessary parties; and
- (b) where the order is to be made in proceedings for divorce, nullity of marriage or judicial separation it may, if it thinks fit, defer the grant of the decree in question until the instrument has been duly executed.

**Changes to legislation:**

There are currently no known outstanding effects for the Matrimonial Causes (Northern Ireland) Order 1978, Cross Heading: Additional provisions with respect to financial provision and property adjustment orders.