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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**

*Financial provision in case of neglect to maintain*

**Financial provision orders in case of neglect by party to marriage to maintain other party or child of the family**

**29.**—(1) Either party to a marriage may apply to the court for an order under this Article on the ground that the other party to the marriage (“the respondent”)—

- (a) has failed to provide reasonable maintenance for the applicant, or
- (b) has failed to provide, or to make a proper contribution towards, reasonable maintenance for any child of the family.

[<sup>F1</sup>(2) Where an application under this Article is made on the ground mentioned in paragraph (1) (a), then, in deciding—

- (a) whether the respondent has failed to provide reasonable maintenance for the applicant, and
- (b) what order, if any, to make under this Article in favour of the applicant,

it shall be the duty of the court to have regard to all the circumstances of the case (including the matters mentioned in Article 27(2)(a) to (g)), first consideration being given to the welfare while a minor of any child of the family who has not attained the age of 18.

(3) Where an application under this Article is made on the ground mentioned in paragraph (1) (b), then, in deciding—

- (a) whether the respondent has failed to provide, or to make a proper contribution towards, reasonable maintenance for the child of the family to whom the application relates, and
- (b) what order, if any, to make under this Article in favour of the child,

it shall be the duty of the court to have regard to all the circumstances of the case (including the matters specified in paragraph (3A)), first consideration being given to the welfare while a minor of the child.

(3A) The matters referred to in paragraph (3) are—

- (a) where the child of the family to whom the application relates is not the child of the respondent, the matters mentioned in Article 27(3)(a) to (e) and those mentioned in Article 27(4)(a) to (c);
- (b) in any other case, the matters mentioned in Article 27(3)(a) to (e).]

(4) In relation to an application under this Article on the ground mentioned in paragraph (1)(a), [<sup>F1</sup>Article 27(2)(c)] shall have effect as if for the reference therein to the breakdown of the marriage

there were substituted a reference to the failure to provide reasonable maintenance for the applicant, and, in relation to an application under this Article on the ground mentioned in paragraph (1)(b),<sup>[F1]</sup> Article 27(2)(c) (as it applies by virtue of Article 27(3)(e)) shall have effect as if for the reference therein to the breakdown of the marriage there were substituted a reference to the failure to provide, or to make a proper contribution towards, reasonable maintenance for the child of the family to whom the application relates.

(5) Where on an application under this Article it appears to the court that the applicant or any child of the family to whom the application relates is in immediate need of financial assistance, but it is not yet possible to determine what order, if any, should be made on the application, the court may make an interim order for maintenance, that is to say, an order requiring the respondent to make to the applicant until the determination of the application such periodical payments as the court thinks reasonable.

(6) Where on an application under this Article the applicant satisfies the court of any ground mentioned in paragraph (1), the court may make any one or more of the following orders, that is to say—

- (a) an order that the respondent shall make to the applicant such periodical payments, for such term, as may be specified in the order;
- (b) an order that the respondent shall secure to the applicant, to the satisfaction of the court, such periodical payments, for such term, as may be so specified;
- (c) an order that the respondent shall pay to the applicant such lump sum as may be so specified;
- (d) an order that the respondent shall make to such person as may be specified in the order for the benefit of the child to whom the application relates, or to that child, such periodical payments, for such term, as may be so specified;
- (e) an order that the respondent shall secure to such person as may be so specified for the benefit of that child, or to that child, to the satisfaction of the court, such periodical payments, for such term, as may be so specified;
- (f) an order that the respondent shall pay to such person as may be so specified for the benefit of that child, or to that child, such lump sum as may be so specified;

subject, however, in the case of an order under sub-paragraph (d), (e) or (f), to the restrictions imposed by Article 31(1) and (3) on the making of financial provision orders in favour of children who have attained the age of 18.

(7) An application for the variation under Article 33 of a periodical payments order or secured periodical payments order made under this Article in favour of a child may, if the child has attained the age of 16, be made by the child himself.

<sup>[F2]</sup>(8) Where a periodical payments order made under this Article in favour of a child ceases to have effect on the date on which the child attains the age of 16, or at any time after that date but before or on the date on which he attains the age of 18, then if, on an application made to the court for an order under this paragraph, it appears to the court that—

- (a) the child is, or 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 he is, will be or would be, also in gainful employment; or
- (b) there are special circumstances which justify the making of an order under this paragraph,

the court shall have power by order to revive the first-mentioned order from such date as the court may specify, not being earlier than the date of the making of the application, and to exercise its powers under Article 33 in relation to any order so revived.]

(9) Without prejudice to the generality of paragraph (6)(c) or (f), an order under this Article for the payment of a lump sum—

- (a) may be made for the purpose of enabling any liabilities or expenses reasonably incurred in maintaining the applicant or any child of the family to whom the application relates before the making of the application to be met;
- (b) may provide for the payment of that sum by instalments of such amount as may be specified in the order and may require the payment of the instalments to be secured to the satisfaction of the court.

**F1** 1989 NI 4

**F2** 1995 NI 2

**Changes to legislation:**

There are currently no known outstanding effects for the Matrimonial Causes (Northern Ireland) Order 1978, Cross Heading: Financial provision in case of neglect to maintain.