
STATUTORY INSTRUMENTS

1979 No. 924

Inheritance (Provision for Family and Dependants) (Northern Ireland) Order 1979

Powers of court to order financial provision from deceased's estate

Variation, discharge, etc., of orders for periodical payments

8.—(1) Subject to the provisions of this Order, where the court has made an order under Article 4(1)(a) (in this Article referred to as “the original order”) for the making of periodical payments to any person (in this Article referred to as “the original recipient”), the court, on an application under this Article, shall have power by order to vary or discharge the original order or to suspend any provision of it temporarily and to revive the operation of any provision so suspended.

(2) Without prejudice to the generality of paragraph (1), an order made on an application for the variation of the original order may—

- (a) provide for the making out of any relevant property of such periodical payments and for such term as may be specified in the order to any person who has applied, or would but for Article 6 be entitled to apply, for an order under Article 4 (whether or not, in the case of any application, an order was made in favour of the applicant);
- (b) provide for the payment out of any relevant property of a lump sum of such amount as may be so specified to the original recipient or to any such person as is mentioned in subparagraph (a);
- (c) provide for the transfer of the relevant property, or such part thereof as may be so specified, to the original recipient or to any such person as is so mentioned.

(3) Where the original order provides that any periodical payments payable thereunder to the original recipient are to cease on the occurrence of an event specified in the order^[F1] (other than the formation of a subsequent marriage or civil partnership by a former spouse or former civil partner)] or on the expiration of a period so specified, then, if, before the end of the period of six months from the date of the occurrence of that event or of the expiration of that period, an application is made for an order under this Article, the court shall have power to make any order which it would have had power to make if the application had been made before that date (whether in favour of the original recipient or any such person as is mentioned in paragraph (2)(a) and whether having effect from that date or from such later date as the court may specify).

(4) Any reference in this Article to the original order shall include a reference to an order made under this Article and any reference in this Article to the original recipient shall include a reference to any person to whom periodical payments are required to be made by virtue of an order under this Article.

(5) An application under this Article may be made by any of the following persons, that is to say—

- (a) any person who by virtue of Article 3(1) has applied, or would but for Article 6 be entitled to apply, for an order under Article 4,
- (b) the personal representative of the deceased,
- (c) the trustees of any relevant property, and
- (d) any beneficiary of the estate of the deceased.

- (6) An order under this Article may only affect—
- (a) property the income of which is at the date of the order applicable wholly or in part for the making of periodical payments to any person who has applied for an order under this Order, or
 - (b) in the case of an application under paragraph (3) in respect of payments which have ceased to be payable on the occurrence of an event or the expiration of a period, property the income of which was so applicable immediately before the occurrence of that event or the expiration of that period, as the case may be,

and any such property as is mentioned in sub-paragraph (a) or (b) is in paragraphs (2) and (5) referred to as “relevant property”.

(7) In exercising the powers conferred by this Article the court shall have regard to all the circumstances of the case, including any change in any of the matters to which the court was required to have regard when making the order to which the application relates.

(8) Where the court makes an order under this Article, it may give such consequential directions as it thinks necessary or expedient having regard to the provisions of the order.

(9) No such order as is mentioned in Article 4(1)(d), (e)^{F1} (f) or (g)], 11, 12 or 13 shall be made on an application under this Article.

(10) For the avoidance of doubt it is hereby declared that, in relation to an order which provides for the making of periodical payments which are to cease on the occurrence of an event specified in the order^{F1} (other than the formation of a subsequent marriage or civil partnership by a former spouse or former civil partner)] or on the expiration of a period so specified, the power to vary an order includes power to provide for the making of periodical payments after the expiration of that period or the occurrence of that event.

F1 2004 c. 33

Changes to legislation:

There are currently no known outstanding effects for the Inheritance (Provision for Family and Dependants) (Northern Ireland) Order 1979, Section 8.