
STATUTORY INSTRUMENTS

1980 No. 563

Domestic Proceedings (Northern Ireland) Order 1980

Variation, revocation and cessation of orders etc.

Variation, revival and revocation of orders for periodical payments

22.—(1) Where the court has made an order under Article 4(1)(*a*) or (*c*) for the making of periodical payments, the court shall have power, on an application made under this Article, to vary or revoke that order and also to make an order under Article 4(1)(*b*) or (*d*).

[^{F1}(2) Where the court has made an order under Article 8 for the making of periodical payments by a party to a marriage the court shall have power, on an application made under this Article, to vary or revoke that order and also to make an order for the payment of a lump sum by that party either—

- (a) to the other party to the marriage, or
- (b) to a child of the family or to that other party for the benefit of that child.]

(3) Where the court has made an order under Article 9 for the making of periodical payments, the court shall have power, on an application made under this Article, to vary or revoke that order.
Para. (4) rep. by 1995 NI 2

(5) Where the court has made an interim maintenance order under Article 20, the court, on an application made under this Article, shall have power to vary or revoke that order, except that the court shall not by virtue of this paragraph extend the period for which the order is in force.

(6) The power of the court under this Article to vary an order for the making of periodical payments shall include power to suspend any provision thereof temporarily and to revive any provision so suspended.

(7) Where the court has power by virtue of this Article to make an order for the payment of a lump sum, the amount of the lump sum shall not exceed the maximum amount that may at that time be required to be paid under Article 4(3), but the court may make an order for the payment of a lump sum not exceeding that amount notwithstanding that the person required to pay the lump sum was required to pay a lump sum by a previous order under this Order.

(8) Where the court has power by virtue of paragraph (2) to make an order for the payment of a lump sum and the respondent[^{F1} or the applicant, as the case may be,] has agreed to pay a lump sum of an amount exceeding the maximum amount that may at that time be required to be paid under Article 4(3), the court may, notwithstanding anything in paragraph (7), make an order for the payment of a lump sum of that amount.

(9) An order made by virtue of this Article which varies an order for the making of periodical payments may^{F2} . . . provide that the payments as so varied shall be made from such date as the court may specify,[^{F3} except that, subject to paragraphs (9A) and (9B), the date shall not be] earlier than the date of the making of the application under this Article.

[^{F3}(9A) Paragraph (9B) applies where—

- (a) a relevant order is in force requiring payments specified in it to be made to or for the benefit of more than one child without apportioning those payments between them;

- (b) a^{F4} maintenance assessment (“^{F4}the assessment”) is made with respect to one or more, but not all, of the children in whose favour the order is in force; and
- (c) an application is made, before the end of the period of 6 months beginning with the date on which^{F4} the assessment was made, for the variation or revocation of the order.

(9B) Where this paragraph applies the court may, in exercise of its powers under this Article to vary or revoke the relevant order, direct that the variation or revocation shall take effect from the date on which^{F4} the assessment took effect or any later date.

(9C) In paragraphs (9A) and (9B) “relevant order” means—

- (a) an order under Article 4(1)(c),
- (b) an order under paragraph (1) of Article 8 making provision of a kind mentioned in sub# paragraph (c) of paragraph (2) of that Article (regardless of whether it makes provision of any other kind mentioned in paragraph (2) of that Article),
- (c) an order under Article 9(2)(b), or
- (d) an order which is an interim maintenance order under which the payments are to be made to a child or to the applicant for the benefit of a child.

(9D) Paragraph (9E) applies where—

- (a) a child order is affected by a^{F4} maintenance assessment and, on the date on which the child order became so affected, there was in force a spousal order; and
- (b) an application is made, before the end of the period of 6 months beginning with the date on which the^{F4} maintenance assessment was made, for the spousal order to be varied or revoked.

(9E) Where this paragraph applies the court may, in exercise of its powers under this Article to vary or revoke the spousal order, direct that the variation or revocation shall take effect from the date on which the child order became so affected or any later date.

(9F) In paragraphs (9D) and (9E)—

“child order” means an order of a kind prescribed for the purposes of Article 12(1) of the Child Support (Northern Ireland) Order 1991; and

“spousal order” means—

- (i) an order under Article 4(1)(a),
- (ii) an order under paragraph (1) of Article 8 making provision of a kind mentioned in sub# paragraph (a) of paragraph (8) of that Article (regardless of whether it makes provision of any other kind mentioned in paragraph (2) of that Article),
- (iii) an order under Article 9(2)(a), or
- (iv) an order which is an interim maintenance order under which the payments are to be made to the applicant (otherwise than for the benefit of a child).

(9G) For the purposes of paragraphs (9D) and (9E), an order is affected if it ceased to have effect or is modified by or under Article 12 of the Child Support (Northern Ireland) Order 1991.]

Para. (10) rep. by 1995 NI 2

(11) In exercising the powers conferred by this Article the court shall, so far as it appears to the court just to do so, give effect to any agreement which has been reached between the parties in relation to the application and, if there is no such agreement or if the court decides not to give effect to the agreement, the court shall have regard to all the circumstances of the case,^{F1} first consideration being given to the welfare while a minor of any child of the family who has not attained the age of 18, and the circumstances of the case shall include 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 or, in the case

of an application for the variation or revocation of an order made under Article 8 or on an appeal, to which the court would have been required to have regard if that order had been made under Article 4.

[^{F2}(12) An application under this Article may be made—

- (a) where it is for the variation or revocation of an order under Article 4, 8, 9 or 20 for periodical payments, by either party to the marriage in question; and
- (b) where it is for the variation of an order made under Article 4(1)(c), 8 or 9 for periodical payments to or in respect of a child, also by the child himself, if he has attained the age of 16.]

Para. (13) rep. by 1995 NI 2

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| F1 | 1989 NI 4 |
| F2 | 1995 NI 2 |
| F3 | SR 1993/98 |
| F4 | prosp. in pt. subst. by 2000 c. 4 (NI) |

Changes to legislation:

There are currently no known outstanding effects for the Domestic Proceedings (Northern Ireland) Order 1980, Section 22.