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STATUTORY INSTRUMENTS

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**1980 No. 563**

**Domestic Proceedings (Northern Ireland) Order 1980**

**Powers of court to make orders for financial provision  
for parties to a marriage and children of the family**

**Powers of court where parties are living apart by agreement**

9.—(1) Where the parties to a marriage have been living apart for a continuous period exceeding three months, neither party having deserted the other, and one of the parties has been making periodical payments for the benefit of the other party or of a child of the family, that other party may apply to the court for an order under this Article, and any application made under this paragraph shall specify the aggregate amount of the payments so made during the period of three months immediately preceding the date of the making of the application.

(2) Where on an application for an order under this Article the court is satisfied that the respondent has made the payments specified in the application, the court may, subject to the provisions of this Order, make one or both of the following orders, that is to say—

- (a) an order that the respondent shall make to the applicant such periodical payments, and for such term, as may be specified in the order;
- (b) an order that the respondent shall make to the applicant for the benefit of a child of the family to whom the application relates, or to such a child, such periodical payments, and for such term, as may be so specified.

(3) The court in the exercise of its powers under this Article—

- (a) shall not require the respondent to make payments which exceed in aggregate during any period of three months the aggregate amount paid by him for the benefit of the applicant or a child of the family during the period of three months immediately preceding the date of the making of the application;
- (b) shall not require the respondent to make payments to or for the benefit of any person which exceed in amount the payments which the court considers that it would have required the respondent to make to or for the benefit of that person on an application under Article 3;
- (c) shall not require payments to be made to or for the benefit of a child of the family who is not a child of the respondent unless the court considers that it would have made an order in favour of that child on an application under Article 3.

(4) Where on an application under this Article the court considers that the orders which it has the power to make under this Article—

- (a) would not provide reasonable maintenance for the applicant, or
- (b) if the applicant relates to a child of the family, would not provide, or make a proper contribution towards, reasonable maintenance for that child,

the court shall refuse to make an order under this Article, but the court may treat the application as if it were an application for an order under Article 4.

(5) The provisions of Article 5 shall apply in relation to an application for an order under this Article as they apply in relation to an application for an order under Article 4 subject to the modification that for the reference in<sup>[F1]</sup> Article 5(2)(c)] to the occurrence of the conduct which is

alleged as the ground of the application there shall be substituted a reference to the living apart of the parties to the marriage.

(6) The provisions of Article 6 shall apply in relation to an order under this Article which requires periodical payments to be made to the applicant for his own benefit as they apply in relation to an order under Article 4(1)( a).

(7) The provisions of Article 7 shall apply in relation to an order under this Article for the making of periodical payments in respect of a child of the family as they apply in relation to an order under Article 4(1)( c).

<b>F1</b> 1989 NI 4
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**Changes to legislation:**

There are currently no known outstanding effects for the Domestic Proceedings (Northern Ireland) Order 1980, Section 9.