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SCHEDULES

SCHEDULE 15

FINANCIAL RELIEF IN THE HIGH COURT OR A COUNTY COURT ETC.: NORTHERN IRELAND

Annotations:

Modifications etc. (not altering text)

- C1** Sch. 15: functions transferred (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 15(1), [Sch. 17 para. 21\(b\)](#) (with arts. 15(6), 28-31)

PART 12

CONSENT ORDERS AND MAINTENANCE AGREEMENTS

Consent orders for financial relief

- 59 (1) Regardless of anything in the preceding provisions of this Schedule, on an application for a consent order for financial relief, the court may, unless it has reason to think that there are other circumstances into which it ought to inquire, make an order in the terms agreed on the basis only of such information supplied with the application as is required by rules of court.
- (2) Sub-paragraph (1) applies to an application for a consent order varying or discharging an order for financial relief as it applies to an application for an order for financial relief.
- (3) In this paragraph—
“consent order”, in relation to an application for an order, means an order in the terms applied for to which the respondent agrees;
“order for financial relief” means an order under any of Parts 1, 2, 3 and 8.

Meaning of “maintenance agreement” and “financial arrangements”

- 60 (1) In this Part “maintenance agreement” means any written agreement between the civil partners in a civil partnership which—
(a) is made during the continuance or after the dissolution or annulment of the civil partnership and contains financial arrangements, or
(b) is a separation agreement which contains no financial arrangements but is made in a case where no other agreement in writing between the civil partners contains financial arrangements.
- (2) In this Part “financial arrangements” means provisions governing the rights and liabilities towards one another when living separately of the civil partners in a civil

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partnership (including a civil partnership which has been dissolved or annulled) in respect of—

- (a) the making or securing of payments, or
- (b) the disposition or use of any property,

including such rights and liabilities with respect to the maintenance or education of a child (whether or not a child of the family).

- (3) “Education” includes training.

Validity of maintenance agreements

61 If a maintenance agreement includes a provision purporting to restrict any right to apply to a court for an order containing financial arrangements—

- (a) that provision is void, but
- (b) any other financial arrangements contained in the agreement—
 - (i) are not void or unenforceable as a result, and
 - (ii) unless void or unenforceable for any other reason, are (subject to paragraphs 62 and 66) binding on the parties to the agreement.

Alteration of agreements by court during lives of parties

62 (1) [^{F1}Subject to sub-paragraph (1A),] either party to a maintenance agreement may apply to the court or, subject to sub-paragraph (6), to a court of summary jurisdiction for an order under this paragraph if—

- (a) the maintenance agreement is for the time being subsisting, and
- (b) each of the parties to the agreement is for the time being domiciled or resident in Northern Ireland.

[^{F2}(1A) If an application or part of an application relates to a matter where jurisdiction falls to be determined by reference to the jurisdictional requirements of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011—

- (a) the requirement as to domicile or residence in sub-paragraph (1)(b) does not apply to the application or to that part of it, but
- (b) the court may not entertain the application or that part of it unless it has jurisdiction to do so by virtue of that Regulation and that Schedule.]

(2) The court may make an order under this paragraph if it is satisfied that—

- (a) because of a change in the circumstances in the light of which—
 - (i) any financial arrangements contained in the agreement were made, or
 - (ii) financial arrangements were omitted from it,
 the agreement should be altered so as to make different financial arrangements or so as to contain financial arrangements, or
- (b) that the agreement does not contain proper financial arrangements with respect to any child of the family.

(3) In sub-paragraph (2)(a) the reference to a change in the circumstances includes a change foreseen by the parties when making the agreement.

(4) An order under this paragraph may make such alterations in the agreement—

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- (a) by varying or revoking any financial arrangements contained in it, or
 - (b) by inserting in it financial arrangements for the benefit of one of the parties to the agreement or of a child of the family,
- as appear to the court to be just having regard to all the circumstances, including, if relevant, the matters mentioned in paragraph 17(3).
- (5) The effect of the order is that the agreement is to be treated as if any alteration made by the order had been made by agreement between the partners and for valuable consideration.
- (6) The power to make an order under this paragraph is subject to paragraphs 63 and 64.
- [^{F3}(7) In this paragraph “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.]

Annotations:

Amendments (Textual)

- F1** Words in Sch. 15 para. 62(1) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, **Sch. 7 para. 16(9)(a)**
- F2** Sch. 15 para. 62(1A) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, **Sch. 7 para. 16(9)(b)**
- F3** Sch. 15 para. 62(7) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 9, **Sch. 7 para. 16(9)(c)**

*Restrictions on applications to and orders by
courts of summary jurisdiction under paragraph 62*

- 63 (1) A court of summary jurisdiction must not entertain an application under paragraph 62(1) unless—
- (a) both the parties to the agreement are resident in Northern Ireland, and
 - (b) the court acts for a petty sessions district included in the county court division in which at least one of the parties is resident.
- (2) A court of summary jurisdiction must not make any order on such an application other than—
- (a) if the agreement includes no provision for periodical payments by either of the parties, an order inserting provision for the making by one of the parties of periodical payments for the maintenance of—
 - (i) the other party, or
 - (ii) any child of the family;
 - (b) if the agreement includes provision for the making by one of the parties of periodical payments, an order increasing or reducing the rate of, or terminating, any of those payments.

Provisions relating to periodical and secured periodical payments: duration

- 64 (1) If a court decides to make an order under paragraph 62 altering an agreement—
- (a) by inserting provision for the making or securing by one of the parties to the agreement of periodical payments for the maintenance of the other party, or

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- (b) by increasing the rate of the periodical payments which the agreement provides shall be made by one of the parties for the maintenance of the other, it may specify such term as it thinks fit as the term for which the payments or, as the case may be, the additional payments attributable to the increase are to be made under the altered agreement, except that the term must not extend beyond the limits in sub-paragraphs (2) and (3).
- (2) The limits if the payments are not to be secured are—
- (a) the death of either of the parties to the agreement, or
 - (b) the formation of a subsequent civil partnership or marriage by the party to whom the payments are to be made.
- (3) The limits if the payments are to be secured are—
- (a) the death of the party to whom the payments are to be made, or
 - (b) the formation of a subsequent civil partnership or marriage by that party.
- (4) Sub-paragraph (5) applies if a court decides to make an order under paragraph 62 altering an agreement by—
- (a) inserting provision for the making or securing by one of the parties to the agreement of periodical payments for the maintenance of a child of the family, or
 - (b) increasing the rate of the periodical payments which the agreement provides shall be made or secured by one of the parties for the maintenance of such a child.
- (5) The court, in deciding the term for which under the agreement as altered by the order the payments, or the additional payments attributable to the increase, are to be made or secured for the benefit of the child, must apply paragraph 44(2) to (5) (age limits) as if the order in question were a periodical payments or secured periodical payments order in favour of the child.

Saving

- 65 Nothing in paragraphs 61 or 64 affects—
- (a) any power of a court before which any proceedings between the parties to a maintenance agreement are brought under any other enactment (including a provision of this Schedule) to make an order containing financial arrangements, or
 - (b) any right of either party to apply for such an order in such proceedings.

Alteration of agreements by court after death of one party

- 66 (1) This paragraph applies if—
- (a) a maintenance agreement provides for the continuation of payments under the agreement after the death of one of the parties, and
 - (b) that party (“A”) dies domiciled in Northern Ireland.
- (2) Subject to sub-paragraphs (4) and (5), the surviving party or A’s personal representatives may apply to the High Court or a county court for an order under paragraph 62 and accordingly, for the purposes of this paragraph, any reference in that paragraph to the court includes a reference to a county court (whether a civil partnership proceedings county court or not).

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- (3) If a maintenance agreement is altered by a court on an application made under sub-paragraph (2), the same consequences follow as if the alteration had been made immediately before the death by agreement between the parties and for valuable consideration.
- (4) An application under this paragraph may not, without the leave of the High Court or a county court, be made after the end of 6 months from the date on which representation in regard to A's estate is first taken out.
- (5) A county court has jurisdiction under this paragraph only if it is shown to the satisfaction of the court that, at the relevant date, the property included in A's net estate did not exceed £15,000 in value.
- (6) A's personal representatives are not liable for having distributed any part of A's estate after the end of the 6 month period on the ground that they ought to have taken into account the possibility that a court might allow an application by virtue of this paragraph to be made by the surviving party after that period.
- (7) Sub-paragraph (6) does not affect any power to recover any part of the estate so distributed arising by virtue of the making of an order in pursuance of this paragraph.
- (8) Paragraph 53(6) applies for the purposes of sub-paragraph (4) as it applies for the purposes of paragraph 53(3).
- (9) In sub-paragraph (5)—
 - “the property included in A's net estate” means all property of which A had power to dispose by will, otherwise than by virtue of a special power of appointment, less the amount of A's funeral, testamentary and administration expenses, debts and liabilities, including any inheritance tax payable out of A's estate on A's death;
 - “relevant date” means the date of A's death.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act power to apply (with modifications) conferred by 2014 asp 5 s. 30(5)(b)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 1(3)(b) and word inserted by 2013 c. 30 Sch. 7 para. 34(b)
- s. 1(3A) inserted by 2014 asp 5 s. 11(9)
- s. 8(4)(c) inserted by 2014 c. 22 Sch. 4 para. 19(2)
- s. 8(5A) inserted by 2014 c. 22 Sch. 4 para. 19(3)
- s. 8A inserted by 2014 c. 22 Sch. 4 para. 20
- s. 9-9F substituted for s. 9 by 2014 c. 22 Sch. 4 para. 21
- s. 12(4)-(8) inserted by 2014 c. 22 Sch. 4 para. 23(3)
- s. 12A inserted by 2014 c. 22 Sch. 4 para. 24
- s. 14(6) inserted by 2014 c. 22 Sch. 4 para. 26(1)
- s. 14A inserted by 2014 c. 22 Sch. 4 para. 26(2)
- s. 15(3) inserted by 2014 c. 22 Sch. 4 para. 26(3)(b)
- s. 16(3A) inserted by 2014 c. 22 Sch. 4 para. 26(4)(b)
- s. 30A inserted by 2014 c. 22 Sch. 4 para. 27
- s. 31(2)(ab) repealed by 2012 c. 9 s. 114(4) Sch. 10 Pt. 11
- s. 34(1A)-(1C) inserted by 2016 c. 19 Sch. 15 para. 4(3)
- s. 36(2)(g) inserted by 2015 c. 20 s. 99(2)
- s. 45(5)(a) words substituted by 2013 c. 22 Sch. 11 para. 163
- s. 52(1)(ab) inserted by 2014 c. 22 Sch. 4 para. 29(b)
- s. 86(3A) inserted by 2014 asp 5 s. 24(3)(c)
- s. 88(7) inserted by 2014 asp 5 s. 24(5)
- s. 88(8)-(10) inserted by 2014 asp 5 s. 25
- s. 88A-88F inserted by S.I. 2015/396 Sch. 3 para. 2
- s. 88A(9) applied by S.I. 2015/404 reg. 17(4)(b)
- s. 89(3) inserted by 2014 asp 5 s. 24(6)
- s. 89(4) inserted by S.I. 2015/396 Sch. 3 para. 4
- s. 91(1) s. 91 renumbered as s. 91(1) by 2014 asp 5 s. 24(8)(a)
- s. 91(1) words inserted by 2014 asp 5 s. 24(8)(b)(iii)
- s. 91(1) words substituted by 2014 asp 5 s. 24(8)(b)(i)
- s. 91(1) words substituted by 2014 asp 5 s. 24(8)(b)(ii)
- s. 91(1A)(1B) inserted by S.I. 2015/396 Sch. 3 para. 5(2)
- s. 91(2) inserted by 2014 asp 5 s. 24(8)(c)
- s. 92(4)(b)(iii) and word repealed by 2014 asp 5 s. 24(9)(b)(ii)
- s. 93(1A) inserted by 2014 asp 5 s. 24(10)(b)
- s. 93A inserted by 2014 asp 5 s. 24(11)
- s. 94(1) s. 94 renumbered as s. 94(1) by 2014 asp 5 s. 24(12)(a)
- s. 94(1)(b) words substituted by 2014 asp 5 s. 24(12)(b)(i)
- s. 94(1)(b) words substituted by 2014 asp 5 s. 24(12)(b)(ii)
- s. 94(2) (3) inserted by 2014 asp 5 s. 24(12)(c)
- s. 94A-94E inserted by 2014 asp 5 s. 24(13)
- s. 94A inserted by S.I. 2015/396 Sch. 3 para. 6
- s. 95(1A) inserted by 2014 asp 5 s. 24(14)(b)
- s. 95(3A)-(3C) inserted by 2014 asp 5 s. 24(14)(d)
- s. 95ZA inserted by 2014 asp 5 s. 24(15)
- s. 97(5A) inserted by 2014 asp 5 s. 24(18)(b)
- s. 100(3A) (3B) inserted by 2014 asp 5 s. 24(19)(b)
- s. 139A-139E inserted by S.I. 2015/395 Sch. 3 para. 2
- s. 139A(9) applied by S.I. 2015/404 reg. 18(4)(b)

- s. 140(2A)(2B) inserted by S.I. 2015/395 Sch. 3 para. 4
- s. 143A inserted by S.I. 2015/395 Sch. 3 para. 5
- s. 176(c) inserted by S.I. 2015/395 Sch. 3 para. 7
- s. 210(6) inserted by S.I. 2012/3100 art. 2(4)
- s. 210(6) words inserted by 2013 c. 30 Sch. 7 para. 36
- s. 212(1A) inserted by S.I. 2014/560 Sch. 1 para. 29(2)
- s. 213(1A) inserted by 2013 c. 30 Sch. 2 para. 5(2)
- s. 214(ba) inserted by 2014 asp 5 s. 26(2)(a)
- s. 222(a)(b) omitted by 2013 c. 13 Sch. 2 para. 3(3)
- s. 222(ba) inserted by 2013 c. 13 Sch. 2 para. 3(4)
- Sch. 2 para. 2A inserted by 2014 c. 6 Sch. 2 para. 66(4)
- Sch. 2 para. 5(11) words inserted by S.I. 2014/560 Sch. 1 para. 29(3)
- Sch. 3A inserted by 2014 c. 22 Sch. 4 para. 25
- Sch. 5 para. 38(1) Sch. 5 para. 38 renumbered as Sch. 5 para. 38(1) by 2012 c. 10 s. 52(4)(a)
- Sch. 5 para. 10(1)(a)(iii) inserted by 2012 c. 10 s. 54(3)
- Sch. 5 para. 38(2) (3) inserted by 2012 c. 10 s. 52(4)(b)
- Sch. 5 para. 38A and cross-heading inserted by 2012 c. 10 s. 52(5)
- Sch. 5 para. 38B inserted by 2012 c. 10 s. 53
- Sch. 5 para. 60(6) (7) substituted for Sch. 5 para. 60(6) by 2014 c. 16 Sch. 3 para. 5
- Sch. 5 para. 65(10)(aa) substituted for Sch. 5 para. 65(10)(b)(c) by 2013 c. 22 Sch. 11 para. 172(5)
- Sch. 6 para. 46(b)(c) omitted by 2013 c. 22 Sch. 11 para. 198(b)
- Sch. 10A inserted by S.I. 2015/396 Sch. 3 para. 3
- Sch. 13A inserted by S.I. 2015/395 Sch. 3 para. 3
- Sch. 23 para. A1 inserted by 2014 c. 22 s. 58(5)
- Sch. 23 para. 1(1A) (1B) substituted for Sch. 23 para. 1(1) by 2014 c. 22 s. 58(6)
- Sch. 23 para. A1(4) word substituted by S.I. 2015/395 Sch. 3 para. 8(a)

Commencement Orders yet to be applied to the Civil Partnership Act 2004

Commencement Orders bringing legislation that affects this Act into force:

- S.R. 2012/406 art. 2 commences (2011 c. 20 (N.I.))
- S.R. 2012/440 art. 2 3 commences (2008 c. 10 (N.I.))
- S.R. 2013/201 art. 2 commences (2008 c. 10 (N.I.))
- S.R. 2013/276 art. 2 commences (2008 c. 10 (N.I.))
- S.R. 2015/193 art. 2 commences (2014 c. 11 (N.I.))
- S.R. 2016/387 art. 2 commences (2015 c. 9 (N.I.))
- S.R. 2018/66 art. 2(1) commences (S.I. 2016/999 (N.I.))