
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

Powers of court to make orders

4.—(1) Subject to the provisions of this Order, where an application is made for an order under this Article, the court may, if it is satisfied that the disposition of the deceased's estate effected by his will or the law relating to intestacy, or the combination of his will and that law, is not such as to make reasonable financial provision for the applicant, make any one or more of the following orders:—

- (a) an order for the making to the applicant out of the net estate of the deceased of such periodical payments and for such term as may be specified in the order;
- (b) an order for the payment to the applicant out of that estate of a lump sum of such amount as may be so specified;
- (c) an order for the transfer to the applicant of such property comprised in that estate as may be so specified;
- (d) an order for the settlement for the benefit of the applicant of such property comprised in that estate as may be so specified;
- (e) an order for the acquisition out of property comprised in that estate of such property as may be so specified and for the transfer of the property so acquired to the applicant or for the settlement thereof for his benefit;
- (f) an order varying any ante-nuptial or post-nuptial settlement (including such a settlement made by will) made on the parties to a marriage to which the deceased was one of the parties, the variation being for the benefit of the surviving party to that marriage, or any child of that marriage, or any person who was treated by the deceased as a child of the family in relation to that marriage.

[^{F1}(g) an order varying any settlement made—

- (i) during the subsistence of a civil partnership formed by the deceased, or
- (ii) in anticipation of the formation of a civil partnership by the deceased,

on the civil partners (including such a settlement made by will), the variation being for the benefit of the surviving civil partner, or any child of both the civil partners, or any person who was treated by the deceased as a child of the family in relation to that civil partnership.]

(2) An order under paragraph (1)(a) providing for the making out of the net estate of the deceased of periodical payments may provide for—

- (a) payments of such amount as may be specified in the order,
- (b) payments equal to the whole of the income of the net estate or of such portion thereof as may be so specified,

- (c) payments equal to the whole of the income of such part of the net estate as the court may direct to be set aside or appropriated for the making out of the income thereof of payments under this Article,

or may provide for the amount of the payments or any of them to be determined in any other way the court thinks fit.

(3) Where an order under paragraph (1)(a) provides for the making of payments of an amount specified in the order, the order may direct that such part of the net estate as may be so specified shall be set aside or appropriated for the making out of the income thereof of those payments; but no larger part of the net estate shall be so set aside or appropriated than is sufficient, at the date of the order, to produce by the income thereof the amount required for the making of those payments.

(4) An order under this Article may contain such consequential and supplementary provisions as the court thinks necessary or expedient for the purpose of giving effect to the order or for the purpose of securing that the order operates fairly as between one beneficiary of the estate of the deceased and another and may, in particular, but without prejudice to the generality of this paragraph—

- (a) order any person who holds any property which forms part of the net estate of the deceased to make such payment or transfer such property as may be specified in the order;
- (b) vary the disposition of the deceased's estate effected by the will or the law relating to intestacy, or by both the will and the law relating to intestacy, in such manner as the court thinks fair and reasonable having regard to the provisions of the order and all the circumstances of the case;
- (c) confer on the trustees of any property which is the subject of an order under this Article such powers as appear to the court to be necessary or expedient.

(5) Where—

- (a) the deceased is survived by a wife or husband (“the surviving spouse”) and is also survived by children who are ^{F2}—

- (i) issue of the deceased and the surviving spouse,
- (ii) children adopted by the deceased and the surviving spouse jointly,
- (iii) issue of the deceased and adopted by the surviving spouse, or
- (iv) adopted by the deceased and the issue of the surviving spouse]

; and

- (b) the surviving spouse becomes entitled under the deceased's will or the law relating to intestacy, or a combination of his will and that law, to the net estate of the deceased or to an interest in the estate which amounts to reasonable financial provision for both the surviving spouse and the children,

the court shall not make an order under this Article on the application of any of the children who is a minor.

^{F3}(6) Where—

- (a) the deceased is survived by a civil partner (“the surviving civil partner”) and is also survived by children who are—
 - (i) issue of the deceased and the surviving civil partner,
 - (ii) children adopted by the deceased and the surviving civil partner jointly,
 - (iii) issue of the deceased and adopted by the surviving civil partner, or
 - (iv) adopted by the deceased and the issue of the surviving civil partner; and
- (b) the surviving civil partner becomes entitled under the deceased’s will or the law relating to intestacy, or a combination of the deceased’s will and that law, to the net estate of the

deceased or to an interest in the estate which amounts to a reasonable financial provision for both the surviving civil partner and the children,
the court shall not make an order under this Article on the application of any of the children who is a minor.]

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| <p>F1 2004 c. 33</p> <p>F2 Words in art. 4(5)(a) substituted (13.1.2020) by The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514), regs. 1(2), 137(2) (with regs. 6-9, 137(4))</p> <p>F3 Art. 4(6) inserted (13.1.2020) by The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514), regs. 1(2), 137(3) (with regs. 6-9, 137(4))</p> |
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Changes to legislation:

There are currently no known outstanding effects for the Inheritance (Provision for Family and Dependants) (Northern Ireland) Order 1979, Section 4.