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**Changes to legislation:** Civil Partnership Act 2004, Paragraph 38 is up to date with all changes known to be in force on or before 20 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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## SCHEDULES

### SCHEDULE 15

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

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**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 8

#### FAILURE TO MAINTAIN: FINANCIAL PROVISION (AND INTERIM ORDERS)

*Matters to which the court is to have regard on application under paragraph 34(1)(a)*

- 38 (1) This paragraph applies if an application under paragraph 34 is made on the ground mentioned in paragraph 34(1)(a).
- (2) In deciding—
- (a) whether the respondent has failed to provide reasonable maintenance for the applicant, and
  - (b) what order, if any, to make under this Part in favour of the applicant,
- the court must have regard to all the circumstances of the case including the matters mentioned in paragraph 16(2).
- (3) If an application is also made under paragraph 34 in respect of a child of the family who has not reached 18, the court must give first consideration to the welfare of the child while under 18.
- (4) Paragraph 16(2)(c) has effect as if for the reference in it to the breakdown of the civil partnership there were substituted a reference to the failure to provide reasonable maintenance for the applicant.

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

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

- s. 102(8A) inserted by [2023 asp 3 s. 56\(2\)](#)
- s. 103(10) inserted by [2023 asp 3 s. 56\(5\)](#)
- s. 108(5) inserted by [2023 asp 3 s. 56\(8\)](#)
- s. 213(1A) inserted by [2013 c. 30 Sch. 2 para. 5\(2\)](#)