

## SCHEDULES

### SCHEDULE 5

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

#### PART 10

##### COMMENCEMENT OF CERTAIN PROCEEDINGS AND DURATION OF CERTAIN ORDERS

##### *Duration of continuing orders in favour of children, and age limit on making certain orders in their favour*

- 49 (1) Subject to sub-paragraph (5)—
- (a) no order under Part 1,
  - (b) no property adjustment order made by virtue of paragraph 7(1)(a) (transfer of property), and
  - (c) no order made under Part 9 (failure to maintain) by virtue of paragraph 41, is to be made in favour of a child who has reached 18.
- (2) The term to be specified in a periodical payments or secured periodical payments order in favour of a child may begin with—
- (a) the date of the making of an application for the order or a later date, or
  - (b) a date ascertained in accordance with sub-paragraph (7) or (8).
- (3) The term to be specified in such an order—
- (a) must not in the first instance extend beyond the date of the birthday of the child next following the child's reaching the upper limit of the compulsory school age unless the court considers that in the circumstances of the case the welfare of the child requires that it should extend to a later date, and
  - (b) must not in any event, subject to sub-paragraph (5), extend beyond the date of the child's 18th birthday.
- (4) Sub-paragraph (3)(a) must be read with section 8 of the Education Act 1996 (c. 56) (which applies to determine for the purposes of any enactment whether a person is of compulsory school age).
- (5) Sub-paragraphs (1) and (3)(b) do not apply in the case of a child if it appears to the court that—
- (a) the child is, or will be, or, if an order were made without complying with either or both of those provisions, would be—
    - (i) receiving instruction at an educational establishment, or
    - (ii) undergoing training for a trade, profession or vocation,whether or not the child also is, will be or would be in gainful employment, or
  - (b) there are special circumstances which justify the making of an order without complying with either or both of sub-paragraphs (1) and (3)(b).

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*Status: This is the original version (as it was originally enacted).*

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- (6) A periodical payments order in favour of a child, regardless of anything in the order, ceases to have effect on the death of the person liable to make payments under the order, except in relation to any arrears due under the order on the date of the death.
- (7) If—
- (a) a maintenance calculation (“the current calculation”) is in force with respect to a child, and
  - (b) an application is made under this Schedule for a periodical payments or secured periodical payments order in favour of that child—
    - (i) in accordance with section 8 of the Child Support Act 1991 (c. 48), and
    - (ii) before the end of 6 months beginning with the making of the current calculation,the term to be specified in any such order made on that application may be expressed to begin on, or at any time after, the earliest permitted date.
- (8) “The earliest permitted date” is whichever is the later of—
- (a) the date 6 months before the application is made, or
  - (b) the date on which the current calculation took effect or, where successive maintenance calculations have been continuously in force with respect to a child, on which the first of those calculations took effect.
- (9) If—
- (a) a maintenance calculation ceases to have effect by or under any provision of the 1991 Act, and
  - (b) an application is made, before the end of 6 months beginning with the relevant date, for a periodical payments or secured periodical payments order in favour of a child with respect to whom that maintenance calculation was in force immediately before it ceased to have effect,
- the term to be specified in any such order made on that application may begin with the date on which that maintenance calculation ceased to have effect or any later date.
- (10) “The relevant date” means the date on which the maintenance calculation ceased to have effect.
- (11) In this paragraph “maintenance calculation” has the same meaning as it has in the 1991 Act by virtue of section 54 of the 1991 Act as read with any regulations in force under that section.