

SCHEDULES

SCHEDULE 6

FINANCIAL RELIEF IN MAGISTRATES' COURTS ETC.

PART 5

COMMENCEMENT AND DURATION OF ORDERS UNDER PARTS 1, 2 AND 3

Duration of periodical payments order for a civil partner

- 26 (1) The court may specify in a periodical payments order made under paragraph 2(1)(a) or Part 3 in favour of a civil partner such term as it thinks fit, except that the term must not—
- (a) begin before the date of the making of the application for the order, or
 - (b) extend beyond the death of either of the civil partners.
- (2) If—
- (a) a periodical payments order is made under paragraph 2(1)(a) or Part 3 in favour of one of the civil partners, and
 - (b) the civil partnership is subsequently dissolved or annulled but the order continues in force,
- the periodical payments order ceases to have effect (regardless of anything in it) on the formation of a subsequent civil partnership or marriage by that civil partner, except in relation to any arrears due under the order on the date of that event.

Age limit on making orders for financial provision for children and duration of such orders

- 27 (1) Subject to sub-paragraph (5), no order is to be made under paragraph 2(1)(c) or (d) or Part 3 in favour of a child who has reached 18.
- (2) The term to be specified in a periodical payments order made under paragraph 2(1)(c) or Part 3 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 his 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.

Status: This is the original version (as it was originally enacted).

- (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 such 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 also the child is, will be or would be, in gainful employment, or
 - (b) there are special circumstances which justify the making of the order without complying with either or both of sub-paragraphs (1) and (3)(b).
- (6) Any order made under paragraph 2(1)(c) or Part 3 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.
- (7) If—
- (a) a maintenance calculation (“current calculation”) is in force with respect to a child, and
 - (b) an application is made for an order under paragraph 2(1)(c) or Part 3—
 - (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 order under paragraph 2(1)(c) or Part 3 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, or in any interim order under Part 4, 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.

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- (11) In this Schedule “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.

Application of paragraphs 26 and 27 to Part 2 orders

- 28 (1) Subject to sub-paragraph (3), paragraph 26 applies in relation to an order under Part 2 which requires periodical payments to be made to a civil partner for his own benefit as it applies in relation to an order under paragraph 2(1)(a).
- (2) Subject to sub-paragraph (3), paragraph 27 applies in relation to an order under Part 2 for the making of financial provision in respect of a child of the family as it applies in relation to an order under paragraph 2(1)(c) or (d).
- (3) If—
- (a) the court makes an order under Part 2 which contains provision for the making of periodical payments, and
 - (b) by virtue of paragraph 14, an application for an order under Part 1 is treated as if it had been withdrawn,
- the term which may be specified under Part 2 as the term for which the payments are to be made may begin with the date of the making of the application for the order under Part 1 or any later date.

Effect on certain orders of parties living together

- 29 (1) Sub-paragraph (2) applies if periodical payments are required to be made to a civil partner (whether for the civil partner’s own benefit or for the benefit of a child of the family)—
- (a) by an order made under Part 1 or 2, or
 - (b) by an interim order made under Part 4 (otherwise than on an application under Part 3).
- (2) The order is enforceable even though—
- (a) the civil partners are living with each other at the date of the making of the order, or
 - (b) if they are not living with each other at that date, they subsequently resume living with each other;
- but the order ceases to have effect if after that date the parties continue to live with each other, or resume living with each other, for a continuous period exceeding 6 months.
- (3) Sub-paragraph (4) applies if—
- (a) an order is made under Part 1 or 2 which requires periodical payments to be made to a child of the family, or
 - (b) an interim order is made under Part 4 (otherwise than on an application under Part 3) which requires periodical payments to be made to a child of the family.
- (4) Unless the court otherwise directs, the order continues to have effect and is enforceable even if—
- (a) the civil partners are living with each other at the date of the making of the order, or

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- (b) if they are not living with each other at that date, they subsequently resume living with each other.
- (5) An order made under Part 3, and any interim order made on an application for an order under that Part, ceases to have effect if the civil partners resume living with each other.
- (6) If an order made under this Schedule ceases to have effect under—
 - (a) sub-paragraph (2) or (5), or
 - (b) a direction given under sub-paragraph (4),a magistrates' court may, on an application made by either civil partner, make an order declaring that the order ceased to have effect from such date as the court may specify.