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STATUTORY INSTRUMENTS

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**1979 No. 924**

**Inheritance (Provision for Family and  
Dependants) (Northern Ireland) Order 1979**

**Powers of court in relation to transactions intended  
to defeat applications for financial provision**

**Dispositions intended to defeat applications for financial provision**

**12.**—(1) Where an application is made to the court for an order under Article 4, the applicant may, in the proceedings on that application, apply to the court for an order under paragraph (2).

(2) Where on an application under paragraph (1) the court is satisfied—

- (a) that, less than six years before the date of the death of the deceased, the deceased with the intention of defeating an application for financial provision under this Order made a disposition, and
- (b) that full valuable consideration for that disposition was not given by the person to whom or for the benefit of whom the disposition was made (in this Article referred to as “the donee”) or by any other person, and
- (c) that the exercise of the powers conferred by this Article would facilitate the making of financial provision for the applicant under this Order,

then, subject to the provisions of this Article and of Articles 14 and 15, the court may order the donee (whether or not at the date of the order he holds any interest in the property disposed of to him or for his benefit by the deceased) to provide, for the purpose of the making of that financial provision, such sum of money or other property as may be specified in the order.

(3) Where an order is made under paragraph (2) as respects any disposition made by the deceased which consisted of the payment of money to or for the benefit of the donee, the amount of any sum of money or the value of any property ordered to be provided under that paragraph shall not exceed the amount of the payment made by the deceased after deducting therefrom any capital transfer tax borne by the donee in respect of that payment.

(4) Where an order is made under paragraph (2) as respects any disposition made by the deceased which consisted of the transfer of property (other than a sum of money) to or for the benefit of the donee, the amount of any sum of money or the value of any property ordered to be provided under that paragraph shall not exceed the value at the date of the death of the deceased of the property disposed of by him to or for the benefit of the donee (or if that property has been disposed of by the person to whom it was transferred by the deceased, the value at the date of that disposal thereof) after deducting therefrom any capital transfer tax borne by the donee in respect of the transfer of that property by the deceased.

(5) Where an application (in this paragraph referred to as “the original application”) is made for an order under paragraph (2) in relation to any disposition, then, if on an application under this paragraph by the donee or by any applicant for an order under Article 4 the court is satisfied—

- (a) that, less than six years before the date of the death of the deceased, the deceased with the intention of defeating an application for financial provision under this Order made a disposition other than the disposition which is the subject of the original application, and

(b) that full valuable consideration for that other disposition was not given by the person to whom or for the benefit of whom that other disposition was made or by any other person, the court may exercise in relation to the person to whom or for the benefit of whom that other disposition was made the powers which the court would have had under paragraph (2) if the original application had been made in respect of that other disposition and the court had been satisfied as to the matters set out in sub-paragraphs (a), (b) and (c) of that paragraph: and where any application is made under this paragraph, any reference in this Article (except in paragraph (2)(b)) to the donee shall include a reference to the person to whom or for the benefit of whom that other disposition was made.

(6) In determining whether and in what manner to exercise its powers under this Article, the court shall have regard to the circumstances in which any disposition was made and any valuable consideration which was given therefor, the relationship, if any, of the donee to the deceased, the conduct and financial resources of the donee and all the other circumstances of the case.

(7) In this Article “disposition” does not include—

- (a) any provision in a will, any such nomination as is mentioned in Article 10(1) or any donatio mortis causa, or
- (b) any appointment of property made, otherwise than by will, in the exercise of a special power of appointment,

but, subject to these exceptions, includes any payment of money (including the payment of a premium under a policy of assurance) and any conveyance, assurance, appointment or gift of property of any description, whether made by an instrument or otherwise.

(8) The provisions of this Article do not apply to any disposition made before the commencement of this Order.

**Changes to legislation:**

There are currently no known outstanding effects for the Inheritance (Provision for Family and Dependants) (Northern Ireland) Order 1979, Section 12.