

SCHEDULES

SCHEDULE 1

Article 11.

AMENDMENTS RELATING TO MAINTENANCE ORDERS REGISTERED IN OR CONFIRMED BY COURTS OF SUMMARY JURISDICTION OR REGISTERED IN THE HIGH COURT

The Maintenance Orders (Facilities for Enforcement) Act 1920 (c. 33)

1. In section 11 (application to Ireland), for paragraphs (a) to (c) substitute—

“(a) In section 4 (power of court of summary jurisdiction to confirm maintenance order made out of UK) after subsection (5) there shall be inserted the following subsections—

“(5A) Where a court of summary jurisdiction confirms a provisional order under this section, it shall at the same time exercise one of its powers under subsection (5B).

(5B) The powers of the court are—

- (a) the power to order that payments under the order be made directly to the collecting officer;
- (b) the power to order that payments under the order be made to the collecting officer by such method of payment falling within Article 85(7) of the Magistrates' Courts (Northern Ireland) Order 1981 (standing order, etc.) as may be specified;
- (c) the power to make an attachment of earnings order under Part IX of the Order of 1981 to secure payments under the order;

and in this subsection “collecting officer” means the officer mentioned in Article 85(4) of the Order of 1981.

(5C) In deciding which of the powers under subsection (5B) it is to exercise, the court shall have regard to any representations made by the person liable to make payments under the order.

(5D) Paragraph (5) of Article 85 of the Magistrates' Courts (Northern Ireland) Order 1981 (power of court to require debtor to open account) shall apply for the purposes of subsection (5B) as it applies for the purposes of that Article but as if for sub-paragraph (a) there were substituted—

“(a) the court proposes to exercise its power under paragraph (b) of section 4(5B) of the Maintenance Orders (Facilities for Enforcement) Act 1920, and”.”;

(b) In section 4, for subsection (6) there shall be substituted the following subsections—

“(6) Subject to subsection (6A), where a provisional order has been confirmed under this section, it may be varied or revoked in like manner as if it had originally been made by the confirming court.

(6A) Where the confirming court is a court of summary jurisdiction, Article 86 of the Magistrates' Courts (Northern Ireland) Order 1981 (revocation, variation, etc.,

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of orders for periodical payment) shall have effect in relation to a provisional order confirmed under this section—

- (a) as if in paragraph (3) for the words “sub-paragraphs (a) to (d) of Article 85(3)” there were substituted “section 4(5B) of the Maintenance Orders (Facilities for Enforcement) Act 1920”;
- (b) as if in paragraph (4) for sub-paragraph (b) there were substituted—
 - “(b) payments under the order are required to be made to the collecting officer by any method of payment falling within Article 85(7) (standing order, etc.)”;

and as if after the words “petty sessions” there were inserted “for the petty sessions district for which the court which made the order acts;”

- (c) as if in paragraph (5) for the words “to the collecting officer” there were substituted “in accordance with paragraph (a) of section 4(5B) of the Maintenance Orders (Facilities for Enforcement) Act 1920”;
- (d) as if in paragraph (7), sub-paragraph (c) and the word “and” immediately preceding it were omitted;
- (e) as if in paragraph (8) for the words “sub-paragraphs (a) to (d) of Article 85(3)” there were substituted “section 4(5B) of the Maintenance Orders (Facilities for Enforcement) Act 1920”;
- (f) as if for paragraphs (9) and (10) there were substituted the following paragraphs—

“(9) In deciding, for the purposes of paragraphs (3) and (8), which of the powers under section 4(5B) of the Maintenance Orders (Facilities for Enforcement) Act 1920 it is to exercise, the court shall have regard to any representations made by the debtor.

(10) Paragraph (5) of Article 85 (power of court to require debtor to open account) shall apply for the purposes of paragraphs (3) and (8) as it applies for the purposes of that Article but as if for sub-paragraph (a) there were substituted—

- “(a) the court proposes to exercise its power under paragraph (b) of section 4(5B) of the Maintenance Orders (Facilities for Enforcement) Act 1920, and”.

(6B) Where on an application for variation or revocation the confirming court is satisfied that it is necessary to remit the case to the court which made the order for the purpose of taking any further evidence, the court may so remit the case and adjourn the proceedings for the purpose.”;

- (c) In section 6 (mode of enforcing orders registered or confirmed by courts under Act) in subsection (2) for the words “the order shall be so enforceable” there shall be substituted “the order shall, subject to the modifications of Article 98 of the Magistrates' Courts (Northern Ireland) Order 1981 (enforcement of sums adjudged to be paid and complaint for arrears) specified in subsection (3ZA) of section 18 of the Maintenance Orders Act 1950 (enforcement of registered orders), be so enforceable”.

The Maintenance and Affiliation Orders Act (Northern Ireland) 1966 (c. 35)

2. In section 11 (registration of orders), after subsection (5) insert—

“(5A) Where an order made by a court of summary jurisdiction is registered under this Part in the High Court, then—

- (a) if payments under the order of the court of summary jurisdiction are required to be made (otherwise than to the collecting officer) by any method of payment falling within Article 85(7) of the Magistrates' Courts (Northern Ireland) Order 1981 (standing order, etc.), any order requiring payment by that method shall continue to have effect after registration;
- (b) any order by virtue of which sums payable under the order of the court of summary jurisdiction are required to be paid to the collecting officer (whether or not by any method of payment falling within Article 85(7) of that Order) on behalf of the person entitled thereto shall cease to have effect.

(5B) Where an order made by the High Court or a county court is registered under this Part in a court of summary jurisdiction, then—

- (a) if a means of payment order (within the meaning of Article 96A(7) of the Judgments Enforcement (Northern Ireland) Order 1981) has effect in relation to the order in question, it shall continue to have effect after registration; and
- (b) in any other case, the court of summary jurisdiction shall order that all payments to be made under the order in question (including any arrears accrued before registration) shall be made to the collecting officer.

(5C) Any such order as to payment—

- (a) as is referred to in subsection (5A)(a) may be revoked, suspended, revived or varied by an exercise of the powers conferred by section 13A; and
- (b) as is referred to in subsection (5B)(a) or (b) may be varied or revoked by an exercise of the powers conferred by section 12(2) or section 13(2A) or (5A).

(5D) Where by virtue of the provisions of this section or any order under subsection (5B) (b) payments under an order cease to be or become payable to the collecting officer, the person liable to make the payments shall, until he is given the prescribed notice to that effect, be deemed to comply with the order if he makes payments in accordance with the order and any order under subsection (5B)(b) of which he has received such notice.”

3. In section 12 (enforcement of registered orders), in subsection (2) after “Article 98 of the Magistrates' Courts (Northern Ireland) Order 1981” insert

“as if for paragraphs (8B) to (8D) there were substituted—

“(8B) Upon the appearance of a person or proof of service of the summons on him as mentioned in paragraph (4) for the enforcement of an order to which this Article applies, the court or resident magistrate may vary the order by exercising one of the powers under sub-paragraphs (a) to (d) of Article 85(3).

(8C) In deciding which of the powers under sub-paragraphs (a) to (d) of Article 85(3) is to be exercised, the court or, as the case may be, a resident magistrate shall have regard to any representations made by the debtor and the creditor (within the meaning of Article 85).

(8D) Paragraph (5) of Article 85 shall apply for the purposes of paragraph (8C) as it applies for the purposes of that Article”.

4.—(1) In section 13 (variation of orders registered in courts of summary jurisdiction)—

(a) after subsection (2) insert—

“(2A) The power of a court of summary jurisdiction to vary a registered order under subsection (2) shall include power, if the court is satisfied that payment has not been made in accordance with the order, to vary the order by exercising one of its powers under sub-

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paragraphs (a) to (d) of Article 85(3) of the Magistrates' Courts (Northern Ireland) Order 1981.

(2B) Paragraph (5) of Article 85 of that Order shall apply for the purposes of subsection (2A) as it applies for the purposes of that Article.

(2C) In deciding which of the powers under sub-paragraphs (a) to (d) of Article 85(3) of that Order it is to exercise, the court shall have regard to any representations made by the debtor and the creditor (within the meaning of Article 85 of that Order).”;

(b) after subsection (5) insert—

“(5A) Subject to the following provisions of this section, paragraphs (4) to (11) of Article 86 of the Magistrates' Courts (Northern Ireland) Order 1981 (power of clerk and court to vary maintenance orders) shall apply in relation to a registered order as they apply in relation to a maintenance order made by a court of summary jurisdiction (disregarding Article 25(2) of the Domestic Proceedings (Northern Ireland) Order 1980) but—

(a) as if in paragraph (8) after the words “the court which may” there were inserted “subject to paragraph (10)”; and

(b) as if for paragraphs (9) and (10) there were substituted the following paragraphs—

“(9) Paragraph (5) of Article 85 shall apply for the purposes of paragraph (8) as it applies for the purposes of that Article.

(10) In deciding which of the powers under sub-paragraphs (a) to (d) of Article 85(3) it is to exercise, the court shall have regard to any representations made by the debtor and the creditor”.

5. After section 13 (variation of orders registered in courts of summary jurisdiction) insert—

“Variation etc., of orders registered in the High Court.

13A.—(1) The provisions of this section shall have effect with respect to orders registered in the High Court other than maintenance orders deemed to be made by a court of summary jurisdiction by virtue of section 10(5), and the reference in subsection (2) to a registered order shall be construed accordingly.

(2) The High Court may exercise the same powers in relation to a registered order as are exercisable by the High Court under Article 96A of the Judgments Enforcement (Northern Ireland) Order 1981 in relation to a qualifying periodical maintenance order (within the meaning of that Article) which has been made by the High Court, including the power under paragraph (7) of that Article to revoke, suspend, revive or vary—

(a) any such order as is referred to in paragraph (a) of section 11(5A) which continues to have effect by virtue of that paragraph; and

(b) any means of payment order (within the meaning of Article 96A(7) of the Order of 1981) made by virtue of the provisions of this section.”.

6. In section 14 (cancellation of registration), at the end insert—

“(5) On the cancellation of the registration of an order made by the High Court or a county court—

(a) any order which requires payments under the order in question to be made (otherwise than to the collecting officer) by any method of payment falling within Article 85(7) of the Magistrates' Courts (Northern Ireland) Order 1981 or Article 96A(5) of the Judgments Enforcement (Northern Ireland) Order 1981 (standing order, etc.) shall continue to have effect; and

- (b) any order made under section 11(5B)(b) or by virtue of the powers conferred by section 12(2) or section 13(2A) or (5A) and which requires payments under the order in question to be made to the collecting officer (whether or not by any method of payment falling within Article 85(7) of the Magistrates' Courts (Northern Ireland) Order 1981) shall cease to have effect;

but, in a case falling within paragraph (b) of this subsection, until the defendant receives the prescribed notice of the cancellation he shall be deemed to comply with the order made by the High Court or, as the case may be, the county court if he makes payment in accordance with any such order as is referred to in that paragraph which was in force immediately before the cancellation and of which he has notice.

(6) On the cancellation of the registration of an order made by a court of summary jurisdiction—

- (a) any order which requires payments under the order made by a court of summary jurisdiction to be made by any method of payment falling within Article 85(7) of the Magistrates' Courts (Northern Ireland) Order 1981 or Article 96A(5) of the Judgments Enforcement (Northern Ireland) Order 1981 (standing order, etc.) shall continue to have effect; and

- (b) in any other case, payments shall become payable to the clerk of the original court;

but, in a case falling within paragraph (b) of this subsection, until the defendant receives the prescribed notice of the cancellation he shall be deemed to comply with the order of the court of summary jurisdiction if he makes payments in accordance with any order which was in force immediately before the cancellation and of which he has notice.”.

The Maintenance Orders (Reciprocal Enforcement) Act 1972 (c. 18)

7. In section 7 (confirmation by UK court of provisional maintenance order made in reciprocating country), after subsection (5D) insert—

“(5E) Where a court of summary jurisdiction in Northern Ireland confirms a provisional order under this section, it shall at the same time exercise one of its powers under subsection (5F) below.

(5F) The powers of the court are—

- (a) the power to order that payments under the order be made directly to the collecting officer;
- (b) the power to order that payments under the order be made to the collecting officer, by such method of payment falling within Article 85(7) of the Magistrates' Courts (Northern Ireland) Order 1981 (standing order, etc.) as may be specified;
- (c) the power to make an attachment of earnings order under Part IX of the Order of 1981 to secure payments under the order;

and in this subsection “collecting officer” means the officer mentioned in Article 85(4) of the Order of 1981.

(5G) In deciding which of the powers under subsection (5F) above it is to exercise, the court shall have regard to any representations made by the payer under the order.

(5H) Paragraph (5) of Article 85 of the Magistrates' Courts (Northern Ireland) Order 1981 (power of court to require debtor to open account) shall apply for the purposes of subsection (5F) above as it applies for the purposes of that Article but as if for subparagraph (a) there were substituted—

- “(a) the court proposes to exercise its power under paragraph (b) of section 7(5F) of the Maintenance Orders (Reciprocal Enforcement) Act 1972, and”.

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8. In section 8 (enforcement of maintenance order registered in UK court), in subsection (4)—
- (a) after the words “An order which by virtue of this section is enforceable by a magistrates' court shall” there shall be inserted “subject to the modifications of Article 98 of the Magistrates' Courts (Northern Ireland) Order 1981 specified in subsection (4C) below”;
 - (b) after subsection (4B) insert—

“(4C) Article 98 of the Magistrates' Courts (Northern Ireland) Order 1981 (enforcement of sums adjudged to be paid) shall have effect—

- (a) as if for paragraph (7)(a) there were substituted the following paragraph—

“(a) if the court is of the opinion that it is appropriate—

(i) to make an attachment of earnings order; or

(ii) to exercise its power under paragraph (8C)(b)”;

- (b) as if for paragraphs (8B) to (8D) there were substituted the following paragraphs—

“(8B) Upon the appearance of a person or proof of service of the summons on him as mentioned in paragraph (4) for the enforcement of an order to which this Article applies, the court or resident magistrate may vary the order by exercising one of the powers under paragraph (8C).

(8C) The powers mentioned in paragraph (8B) are—

(a) the power to order that payments under the order be made directly to the collecting officer;

(b) the power to order that payments under the order be made to the collecting officer, by such method of payment falling within Article 85(7) (standing order, etc.) as may be specified;

(c) the power to make an attachment of earnings order under Part IX to secure payments under the order.

(8D) In deciding which of the powers under paragraph (8C) is to be exercised, the court or, as the case may be, a resident magistrate shall have regard to any representations made by the debtor (within the meaning of Article 85).

(8E) Paragraph (5) of Article 85 (power of court to require debtor to open account) shall apply for the purposes of paragraph (8C) as it applies for the purposes of that Article but as if for sub-paragraph (a) there were substituted—

“(a) the court proposes to exercise its power under sub-paragraph (b) of Article 98(8C), and”.””

9. In section 9 (variation and revocation of maintenance order registered in UK court), after subsection (1ZA) insert—

“(1ZB) Where the registering court is a court of summary jurisdiction in Northern Ireland, Article 86 of the Magistrates' Courts (Northern Ireland) Order 1981 (revocation, variation etc., of orders for periodical payment) shall have effect in relation to the registered order—

- (a) as if in paragraph (3) for the words “sub-paragraphs (a) to (d) of Article 85(3)” there were substituted “paragraph (3A)” and after that paragraph there were inserted—

“(3A) The powers of the court are—

(a) the power to order that payments under the order be made directly to the collecting officer;

(b) the power to order that payments under the order be made to the collecting officer by such method of payment falling within Article 85(7) (standing order, etc.) as may be specified;

(c) the power to make an attachment of earnings order under Part IX to secure payments under the order.”;

(b) as if in paragraph (4) for sub-paragraph (b) there were substituted—

“(b) payments under the order are required to be made to the collecting officer by any method of payment falling within Article 85(7) (standing order, etc.)”;

and as if after the words “petty sessions” there were inserted “for the petty sessions district for which the court which made the order acts”;

(c) as if in paragraph (5) for the words “to the collecting officer” there were substituted “in accordance with sub-paragraph (a) of paragraph (3A)”;

(d) as if in paragraph (7), sub-paragraph (c) and the word “and” immediately preceding it were omitted;

(e) as if in paragraph (8) for the words “sub-paragraphs (a) to (d) of Article 85(3)” there were substituted “paragraph (3A)”;

(f) as if for paragraphs (9) and (10) there were substituted the following paragraphs—

“(9) In deciding, for the purposes of paragraphs (3) and (8), which of the powers under paragraph (3A) it is to exercise, the court shall have regard to any representations made by the debtor.

(10) Paragraph (5) of Article 85 (power of court to require debtor to open account) shall apply for the purposes of paragraph (3A) as it applies for the purposes of that Article but as if for sub-paragraph (a) there were substituted—

“(a) the court proposes to exercise its power under sub-paragraph (b) of Article 86(3A), and”.””

10. In section 27 (general provisions relating to application for recovery of maintenance in England, etc.)—

(a) after subsection (7D) insert—

“(7E) Where a court of summary jurisdiction in Northern Ireland makes an order on the complaint, Article 85 of the Magistrates' Courts (Northern Ireland) Order 1981 (orders for periodical payment: means of payment) and paragraph (1) of Article 36 of the Domestic Proceedings (Northern Ireland) Order 1980 (extension of Article 85) shall not apply, but the court shall, at the same time that it makes the order, exercise one of its powers under subsection (7F) below.

(7F) The powers of the court are—

(a) the power to order that payments under the order be made directly to the collecting officer;

(b) the power to order that payments under the order be made to the collecting officer, by such method of payment falling within Article 85(7) of the Magistrates' Courts (Northern Ireland) Order 1981 (standing order, etc.) as may be specified;

(c) the power to make an attachment of earnings order under Part IX of the Order of 1981 to secure payments under the order;

and in this subsection “collecting officer” means the officer mentioned in Article 85(4) of the Order of 1981.

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(7G) In deciding which of the powers under subsection (7B) above it is to exercise, the court shall have regard to any representations made by the person liable to make payments under the order.

(7H) Paragraph (5) of Article 85 of the Magistrates' Courts (Northern Ireland) Order 1981 (power of court to require debtor to open account) shall apply for the purposes of subsection (7F) above as it applies for the purposes of that Article but as if for subparagraph (a) there were substituted—

“(a) the court proposes to exercise its power under paragraph (b) of section 27(7F) of the Maintenance Orders (Reciprocal Enforcement) Act 1972, and”;

(b) subsection (9) (payment to be in such manner and to such person as may be prescribed and certain enactments not to apply) shall cease to have effect.

11. In section 29 (complaint by spouse in convention country for recovery in Northern Ireland of maintenance from other spouse), after the word “21” there shall be inserted “22A”.

12. In section 29A (complaint by former spouse in convention country for recovery in Northern Ireland of maintenance from other spouse), in subsection (3) (modifications of 1978 Act), in paragraph (e) after the word “21” there shall be inserted “22A”.

13. In section 33 (enforcement of orders)—

(a) in subsection (3) for the words “shall be enforceable” there shall be substituted “shall, subject to the modifications of Article 98 of the Magistrates' Courts (Northern Ireland) Order 1981 (enforcement of sums adjudged to be paid and complaint for arrears) specified in subsection (4C) of section 8 of this Act, be enforceable”;

(b) after subsection (3A) insert—

“(3B) Where, by virtue of being registered in the court of summary jurisdiction in which it was made, a registered order is enforceable as a maintenance order made by a court of summary jurisdiction, Article 98 of the Magistrates' Courts (Northern Ireland) Order 1981 shall have effect subject to the modifications specified in subsection (4C) of section 8 of this Act.”.

14. In section 34 (variation and enforcement of orders)—

(a) at the beginning of subsection (1) (order registered in court other than court which made it variable as if made by registering court) insert “Subject to section 34B of this Act”;

(b) after section 34A insert—

“Variation of orders by courts of summary jurisdiction in Northern Ireland.

34B.—(1) The provisions of this section shall have effect in relation to a registered order which is registered in a court of summary jurisdiction in Northern Ireland (whether or not the court made the order) in place of the following enactments, that is to say—

(a) paragraphs (3) to (11) of Article 86 of the Magistrates' Courts (Northern Ireland) Order 1981; and

(b) Article 22A of the Domestic Proceedings (Northern Ireland) Order 1980.

(2) The power of a court of summary jurisdiction in Northern Ireland to vary a registered order shall include power, if the court is satisfied that payment has not been made in accordance with the order, to exercise one of its powers under subsection (3) below.

(3) The powers of the court are—

- (a) the power to order that payments under the order be made directly to the collecting officer;
- (b) the power to order that payments under the order be made to the collecting officer by such method of payment falling within Article 85(7) of the Magistrates' Courts (Northern Ireland) Order 1981 (standing order, etc.) as may be specified;
- (c) the power to make an attachment of earnings order under Part IX of the Order of 1981 to secure payments under the order;

and in this subsection “collecting officer” means the officer mentioned in Article 85(4) of the Order of 1981.

(4) In any case where—

- (a) a registered order is registered in a court of summary jurisdiction in Northern Ireland, and
- (b) payments under the order are required to be made to the collecting officer in Northern Ireland, by any method of payment falling within Article 85(7) of the Magistrates' Courts (Northern Ireland) Order 1981 (standing order, etc.),

an interested party may apply in writing to the clerk of petty sessions in which the order is registered for the order to be varied as mentioned in subsection (5) below.

(5) Subject to subsection (8) below, where an application has been made under subsection (4) above, the clerk, after giving written notice (by post or otherwise) of the application to any other interested party and allowing that party, within the period of 14 days beginning with the date of the giving of that notice, and opportunity to make written representations, may vary the order to provide that payments under the order shall be made in accordance with paragraph (a) of subsection (3) above.

(6) The clerk may proceed with an application under subsection (4) above notwithstanding that any such interested party as is referred to in subsection (5) above has not received written notice of the application.

(7) In subsections (4) to (6) above “interested party”, in relation to an order, means the debtor or the creditor.

(8) Where an application has been made under subsection (4) above, the clerk may, if he considers it inappropriate to exercise his power under subsection (5) above, refer the matter to the court which may vary the order by exercising one of its powers under subsection (3) above.

(9) In deciding, for the purposes of subsections (2) and (8) above, which of the powers under subsection (3) above it is to exercise, the court shall have regard to any representations made by the debtor.

(10) Paragraph (5) of Article 85 of the Magistrates' Courts (Northern Ireland) Order 1981 (power of court to require debtor to open account) shall apply for the purposes of subsection (3) above as it applies for the purposes of that Article but as if for subparagraph (a) there were substituted—

- “(a) the court proposes to exercise its power under paragraph (b) of section 34B(3) of the Maintenance Orders (Reciprocal Enforcement) Act 1972, and”.

(11) In this section “creditor” and “debtor” have the same meaning as they have in Article 85 of the Magistrates' Courts (Northern Ireland) Order 1981.”.

15. In section 35 (further provisions with respect to variation etc., of orders by magistrates' courts), at the end of subsection (1) (court to have jurisdiction to hear application for variation or

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revocation notwithstanding one of the parties is outside Northern Ireland) there shall be inserted the words “but none of the powers of the court, or of the clerk, conferred by section 34B of this Act shall be exercisable in relation to such an application”.

The Civil Jurisdiction and Judgments Act 1982 (c. 27)

16. In section 5 (recognition and enforcement of maintenance orders)—

(a) in subsection (6) for the words “shall be enforceable” there shall be substituted “shall, subject to the modifications of Article 98 of the Magistrates' Courts (Northern Ireland) Order 1981 specified in subsection (6A) below, be enforceable”;

(b) after subsection (6) insert—

“(6A) Article 98 (enforcement of sums adjudged to be paid) shall have effect—

(a) as if for paragraph (7)(a) there were substituted the following paragraph—

“(a) if the court is of the opinion that it is appropriate—

(i) to make an attachment of earnings order; or

(ii) to exercise its power under paragraph (8C)(b)”;

(b) as if for paragraphs (8B) to (8D) there were substituted the following paragraphs—

“(8B) Upon the appearance of a person or proof of service of the summons on him as mentioned in paragraph (4) for the enforcement of an order to which this Article applies, the court or resident magistrate may vary the order by exercising one of the powers under paragraph (8C).

(8C) The powers mentioned in paragraph (8B) are—

(a) the power to order that payments under the order be made directly to the collecting officer;

(b) the power to order that payments under the order be made to the collecting officer by such method of payment falling within Article 85(7) (standing order, etc.) as may be specified;

(c) the power to make an attachment of earnings order under Part IX to secure payments under the order.

(8D) In deciding which of the powers under paragraph (8C) is to be exercised, the court or, as the case may be, a resident magistrate shall have regard to any representations made by the debtor (within the meaning of Article 85).

(8E) Paragraph (5) of Article 85 (power of court to require debtor to open account) shall apply for the purposes of paragraph (8C) as it applies for the purposes of that Article but as if for sub-paragraph (a) there were substituted—

“(a) the court proposes to exercise its power under sub-paragraph (b) of Article 98(8C), and”.”.”

17. In section 36 (registration of maintenance orders in Northern Ireland)—

(a) in subsection (3), at the end insert—

“(d) for section 2(6), there were substituted the following subsections—

“(6) Where a magistrates' court order is registered under this Part of this Act in the High Court, then—

(a) if payments under the magistrates' court order are required to be made (otherwise than to a collecting officer) by any method of payment falling within Article 85(7) of the Magistrates' Courts (Northern

Ireland) Order 1981 (standing order, etc.), any order requiring payment by that method shall continue to have effect after registration;

- (b) any order by virtue of which sums payable under the magistrates' court order are required to be paid to the collecting officer (whether or not by any method of payment falling within Article 85(7) of that Order) on behalf of the person entitled thereto shall cease to have effect.

(6ZA) Where a High Court or county court order is registered under this Part of this Act in a magistrates' court, then—

- (a) if a means of payment order (within the meaning of Article 96A(7) of the Judgments Enforcement (Northern Ireland) Order 1981) has effect in relation to the order in question, it shall continue to have effect after registration; and
- (b) in any other case, the magistrates' court shall order that all payments to be made under the order in question (including any arrears accrued before registration) shall be made to the collecting officer.

(6ZB) Any such order as to payment—

- (a) as is referred to in paragraph (a) of subsection (6) of this section may be revoked, suspended, revived or varied by an exercise of the powers conferred by section 13A of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966; and
- (b) as is referred to in paragraph (a) or (b) of subsection (6ZA) of this section may be varied or revoked by an exercise of the powers conferred by section 12(2) or 13(2A) or (5A) of that Act of 1966.

(6ZC) Where by virtue of the provisions of this section or any order under subsection (6ZA)(b) of this section payments under an order cease to be or become payable to the collecting officer, the person liable to make the payments shall, until he is given the prescribed notice to that effect, be deemed to comply with the order if he makes payments in accordance with the order and any order under subsection (6ZA)(b) of this section of which he has received such notice.

(6ZD) In subsections (6), (6ZA) and (6ZC) of this section “collecting officer” means the officer mentioned in Article 85(4) of the Magistrates' Courts (Northern Ireland) Order 1981.”;

- (b) in subsection (4) at the end insert—

“, as if—

- (a) in section 12(2), for modifications of Article 98(8B) to (8D) of the Magistrates' Courts (Northern Ireland) Order 1981 specified in that subsection there were substituted the modifications specified in section 18(3ZA) of the Maintenance Orders Act 1950 (enforcement of registered orders); and

- (b) for section 13(5A), there were substituted the following subsection—

“(5A) Subject to the following provisions of this section, paragraphs (4) to (11) of Article 86 of the Magistrates' Courts (Northern Ireland) Order 1981 (power of clerk and court to vary maintenance orders) shall apply in relation to a registered order as they apply in relation to a maintenance order made by a court of summary jurisdiction (disregarding Article 25(2) of the Domestic Proceedings (Northern Ireland) Order 1980) but—

- (a) as if for paragraph (4)(b) there were substituted—

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“(b) payments under the order are required to be made to the collecting officer, by any method of payment falling within Article 85(7) (standing order, etc.)”;

and as if after the words “petty sessions” there were inserted “for the petty sessions district for which the court which made the order acts”;

(b) as if in paragraph (5) for the words “to the collecting officer” there were substituted “in accordance with sub-paragraph (a) of paragraph (9)”;

(c) as if in paragraph (7), sub-paragraph (c) and the word “and” immediately preceding it were omitted;

(d) as if in paragraph (8) for the words “sub-paragraphs (a) to (d) of Article 85(3)” there were substituted “paragraph (9)”;

(e) as if for paragraphs (9) and (10) there were substituted the following paragraphs—

“(9) The powers of the court are—

(a) the power to order that payments under the order be made directly to the collecting officer;

(b) the power to order that payments under the order be made to the collecting officer, by such method of payment falling within Article 85(7) (standing order, etc.) as may be specified;

(c) the power to make an attachment of earnings order under Part IX to secure payments under the order.

(10) In deciding which of the powers under paragraph (9) above it is to exercise, the court shall have regard to any representations made by the debtor.

(10A) Paragraph (5) of Article 85 (power of court to require debtor to open account) shall apply for the purposes of paragraph (9) as it applies for the purposes of that Article but as if for sub-paragraph (a) there were substituted—

“(a) the court proposes to exercise its power under sub-paragraph (b) of Article 86(9).”.”.””

SCHEDULE 2

Article 12(2).

THE NORTHERN IRELAND FAMILY PROCEEDINGS RULES COMMITTEE

1. In this Schedule “the Committee” means the Northern Ireland Family Proceedings Rules Committee.

2. The Committee shall consist of—

(a) the Lord Chief Justice, who shall be chairman;

(b) two judges of the High Court or the Court of Appeal nominated from time to time by the Lord Chief Justice;

(c) two county court judges nominated by the Lord Chancellor after consultation with the Lord Chief Justice;

- (d) the Master (Probate and Matrimonial);
- (e) the Master (Care and Protection);
- (f) a district judge nominated by the Lord Chancellor;
- (g) a practising member of the Bar of Northern Ireland nominated by the Lord Chancellor;
- (h) one other practising member of the Bar of Northern Ireland nominated by the Council thereof;
- (i) the president of the Law Society of Northern Ireland or a member of the Council thereof nominated by him;
- (j) a practising solicitor nominated by that Council.

3. Where any member of the Committee is unable to act, the Lord Chief Justice, or, in the case of a member nominated by any other authority or body, that authority or body, may nominate another qualified person to act temporarily in his place.

4. Rules of court may be made and other powers of the Committee exercised at a meeting of the Committee by a majority consisting of not less than four members, of whom the chairman of the meeting shall be one.

5. In the absence of the Lord Chief Justice, the senior judge present shall be chairman of the meeting.

6. The joint secretaries to the Committee shall be such persons as the Lord Chancellor, after consultation with the Lord Chief Justice, may from time to time designate, and one of the persons so designated shall be either the Principal Secretary to the Lord Chief Justice or another officer serving in the Supreme Court.

7. Such of the joint secretaries to the Committee as the Lord Chancellor may designate shall, in relation to rules of court, be the responsible officer within the meaning of Articles 5 and 7 of the Statutory Rules (Northern Ireland) Order 1979(1).

8. The Committee shall not, except with the concurrence of the Treasury, make a rule which may involve an increase in expenditure out of public funds; but the validity of such a rule shall not, in any proceedings in any court, be called in question either by the court or by any party to the proceedings on the ground only that the Treasury did not concur or are not expressed to have concurred in the making of the rule.

9. Any expenses incurred by the Committee shall be paid by the Lord Chancellor.

SCHEDULE 3

Article 13.

FUNCTIONS TRANSFERRED BY ARTICLE 13

Article 10(1) of the Family Law Reform (Northern Ireland) Order 1977(2) (power to make regulations as to the manner of giving effect to directions as to scientific tests and the taking of samples for the purposes of establishing paternity).

Regulation 2(1) of the Blood Tests (Evidence of Paternity) Regulations (Northern Ireland) 1978(3) (so far as it confers the function of appointing testers).

(1) 1979 NI 12
(2) 1977 NI 17
(3) S.R. 1978 No. 379

Article 4(3) and (4) of the Domestic Proceedings (Northern Ireland) Order 1980⁽⁴⁾ (power to fix, by order, the maximum amount of a lump sum required to be paid under an order of a court of summary jurisdiction made in matrimonial proceedings).

SCHEDULE 4

Article 16(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

The Marriage (Declaration of Law) Act (Northern Ireland) 1944 (c. 7)

1. In section 2 (marriages within certain degrees of relationship) for the words from “a marriage” to “(whether living or not)” in the second place where it occurs substitute “a marriage which, apart from Article 18 of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984, would have been void by reason of the relationship of the persons to be married.”.

The Crown Proceedings Act 1947 (c. 44)

2. In section 27(2) (attachment of moneys payable by the Crown), as it applies to the Crown in right of Her Majesty’s Government in the United Kingdom by virtue of Article 22 of the Crown Proceedings (Northern Ireland) Order 1981⁽⁵⁾—

(a) for “matrimonial causes rules made under Article 54 of the Matrimonial Causes (Northern Ireland) Order 1978” substitute “family proceedings rules made under Article 12 of the Family Law (Northern Ireland) Order 1993”;

(b) in paragraph (b), for “matrimonial causes rules” substitute “family proceedings rules”; and Schedule 2 to that Order (which sets out the text of the Act as so applied) shall be modified accordingly.

The Maintenance and Affiliation Orders Act (Northern Ireland) 1966 (NI 35)

3. In section 16(1) (interpretation of Part II) in the definition of “collecting officer” for “Article 85(2)” substitute “Article 85(4)”.

The Statutory Rules (Northern Ireland) Order 1979 (NI 12)

4. In Part I of Schedule 1 (rule-making authorities) for “The Northern Ireland Matrimonial Causes Rules Committee” substitute “The Northern Ireland Family Proceedings Rules Committee”.

The Domestic Proceedings (Northern Ireland) Order 1980 (NI 5)

5. In Article 25 (supplementary provisions with respect to variation and revocation of orders), in paragraph (2) (power of court of summary jurisdiction under Article 86 of the 1981 Order to vary etc., order not to apply to order under Part I of this Order) after “money” insert “and the power of the clerk of petty sessions to vary such an order”.

6. Article 36 (enforcement etc., of orders for payment of money)—

(a) in paragraph (1) (which applies Article 85 of the 1981 Order with modifications to orders under Part I of this Order)—

(i) for “the said section 95 shall have effect as if in subsection (3) thereof,” substitute “the said Article 85 shall have effect as if, in paragraph (8)”;

(4) 1980 NI 5
(5) S.I.1981/233

(ii) for the words ““the applicant for the order”” there shall be substituted ““the person who applied for the order””;

(b) in paragraph (3) at the beginning insert “Subject to Article 85(14) of the Order of 1981,”.

7. In Article 39 (provisions as to payments required to be made to a child, etc.), in paragraph (1) (which permits payments to be made to person with whom child has his home and permits the collecting officer under Article 85(5) of the 1981 Order to proceed in his own name for recovery of arrears)—

(a) in paragraph (ii) for the words from “(but without prejudice” onwards substitute “or request or authorise the collecting officer under paragraph (1) or paragraph (2) respectively of Article 85A of the 1981 order”;

(b) in paragraph (6) (definitions), in the definition of “collecting officer” for “Article 85(2) or (3)” substitute “Article 85(4)”.

The Judgments Enforcement (Northern Ireland) Order 1981 (NI 6)

8. In Article 98(a)(ii) (power to make attachment of earnings orders) for “Article 54(3)(f) of the Matrimonial Causes (Northern Ireland) Order 1978” substitute “Article 12(3)(f) of the Family Law (Northern Ireland) Order 1993”.

The Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (NI 8)

9. In Article 13(2) (remuneration of person giving legal aid) for “Article 54(3)(g) of the Matrimonial Causes (Northern Ireland) Order 1978” substitute “Article 12(3)(g) of the Family Law (Northern Ireland) Order 1993”.

The Magistrates' Courts (Northern Ireland) Order 1981 (NI 26)

10. In Article 98 (enforcement of orders for periodical payment of money)—

(a) in paragraph (7) (court not to make an order of, or issue a warrant of, commitment in certain circumstances)—

(i) for “may” substitute “shall not”;

(ii) for “is not due” substitute “is due”;

(iii) at the end add

“and without prejudice to the preceding provisions of this paragraph, the court shall not make such an order or issue such a warrant—

(a) in a case where the court has power to do so, if it is of the opinion that it is appropriate—

(i) to make an attachment of earnings order; or

(ii) to order that payments under the order be made by any method of payment falling within Article 85(7); or

(b) where the sum in question comprises only interest which that person has been ordered to pay under Article 86A(1)”;

(b) after paragraph (8) insert—

“(8A) The commitment to prison of a person under paragraph (5) or (6)(a) shall not operate to discharge him from liability to pay the sum in respect of which the order or commitment was made or the warrant of commitment was issued; but where a person has been imprisoned under an order of commitment made in respect of his failure to pay any sum, then, notwithstanding anything in this Order, no such order shall be made in respect of that sum or any part of it.”;

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(c) in paragraph (11) at the end insert—

“so, however, that in the case of orders mentioned in sub-paragraph (a), (b) or (d), this Article shall apply subject to any modifications specified in the statutory provision mentioned in that sub-paragraph.”.

11. In Article 99(7) (court not to make an order of, or issue a warrant of, commitment in certain circumstances)—

(a) for “may” substitute “shall not”;

(b) for “is not due” substitute “is due”.

12. In Article 100(2) (definitions), in the definition of “collecting officer” for “Article 85(2) or (3)” substitute “Article 85(4)”.

13. In Article 101(2) (attachment of earnings order) for the words from “made” onwards substitute “in accordance with Article 85(1)”.

The Fines and Penalties (Northern Ireland) Order 1984 (NI 3)

14. After Article 17(2)(f) (power to alter sums specified in certain provisions) insert—

“(ff) Article 85B(3) of the Magistrates' Courts (Northern Ireland) Order 1981 (penalty for breach of maintenance order);”.

The Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (NI 4)

15. In Article 36(5)(a) (definition of rules of court in relation to declaration as to marital status) for “matrimonial causes rules made under Article 54 of the principal Order” substitute “family proceedings rules made under Article 12 of the Family Law (Northern Ireland) Order 1993”.

16. In Article 40(2) (appeals) for “matrimonial causes rules made under Article 54 of the principal Order” substitute “family proceedings rules made under Article 12 of the Family Law (Northern Ireland) Order 1993”.

SCHEDULE 5

Article 16(2).

REPEALS

Chapter or Number	Short title	Extent of repeal
1870 c. 110.	The Matrimonial Causes and Marriage Law (Ireland) Amendment Act 1870.	Section 41.
1972 c. 18.	The Maintenance Orders (Reciprocal Enforcement) Act 1972.	Section 27(9).
1978 NI 15.	The Matrimonial Causes (Northern Ireland) Order 1978.	Article 54. Schedule 2.
1980 NI 3.	The County Courts (Northern Ireland) Order 1980.	In Schedule 1, in Part II the entry relating to Article 54 of the Matrimonial Causes (Northern Ireland) Order 1978.

Chapter or Number	Short title	Extent of repeal
1980 NI 5.	The Domestic Proceedings (Northern Ireland) Order 1980.	In Schedule 3, paragraph 18.
1981 NI 8.	The Legal Aid, Advice and Assistance (Northern Ireland) Order 1981.	In Schedule 3 the entry relating to the Matrimonial Causes (Northern Ireland) Order 1978.
1981 NI 26.	The Magistrates' Courts (Northern Ireland) Order 1981.	In Schedule 6, paragraph 154.
1984 NI 14.	The Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984.	In Article 18, in the Table, in the first column the words from "Wife's mother" to "Daughter's son's wife" and in the second column the words from "Husband's father" to "Daughter's daughter's husband". In Schedule 2, in Part II, paragraph 1.
1989 NI 4.	The Matrimonial and Family Proceedings (Northern Ireland) Order 1989.	In Schedule 2, paragraph 16.
1989 NI 12.	The Police and Criminal Evidence (Northern Ireland) Order 1989.	In Schedule 2 the entry relating to Article 19(1) of the Domestic Proceedings (Northern Ireland) Order 1980.