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STATUTORY RULES OF NORTHERN IRELAND

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**2012 No. 413**

**JUDGMENTS**

The International Recovery of Maintenance (Hague  
Convention 2007 etc.) Regulations (Northern Ireland) 2012

*Made - - - - 16th November 2012*

*Coming into operation in accordance with regulation 1*

The Department of Justice, being a Northern Ireland department designated for the purposes of section 2(2) of the European Communities Act 1972 <sup>M1</sup> in relation to private international law <sup>M2</sup>, makes the following Regulations in exercise of the power under section 2(2) of the European Communities Act 1972.

**Marginal Citations**

- M1** 1972 c.68. Section 2 was amended by section 27(1)(a) and (b) of the [Legislative and Regulatory Reform Act 2006 \(c.51\)](#) and the Schedule to the [European Union \(Amendment\) Act 2008 \(c.7\)](#).
- M2** [The European Communities \(Designation\) \(No.5\) Order 2010 \(S.I. 2010/2690\)](#).

**Citation and commencement**

1.—(1) These Regulations may be cited as the International Recovery of Maintenance (Hague Convention 2007 etc.) Regulations (Northern Ireland) 2012 and, subject as follows, shall come into operation on the day on which the Convention enters into force in respect of the European Union, which day will be notified in the London, Edinburgh and Belfast Gazettes.

(2) The following provisions come into force on 1st January 2013—

- (a) regulations 1, 2, 5 and 8;
- (b) Schedule 2 except in so far as it applies to the enforcement of a maintenance decision registered under the Convention;
- (c) Schedule 5.

**Interpretation**

2. In these Regulations—

“the Convention” means the Convention on the International Recovery of Child Support and other forms of Family Maintenance done at The Hague on 23 November 2007 <sup>M3</sup> and

*Status: Point in time view as at 16/11/2012.*

*Changes to legislation: There are currently no known outstanding effects for the The International Recovery of Maintenance (Hague Convention 2007 etc.) Regulations (Northern Ireland) 2012. (See end of Document for details)*

“the Maintenance Regulation” means Council Regulation (EC) No 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations <sup>M4</sup> including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark <sup>M5</sup>.

**Marginal Citations**

**M3** OJ No. L192, 22.7.2011, p.51-70

**M4** OJ No. L7, 10.1.2009, p.1-79

**M5** OJ No. L299, 16.11.2005, p62-70.

**Central Authority for Northern Ireland**

3.—(1) The Department of Justice is designated under Article 4 of the Convention as the Central Authority in relation to Northern Ireland.

(2) If a person outside the United Kingdom does not know to which Central Authority in the United Kingdom a communication should be addressed, the person may address it to the Lord Chancellor.

**The Convention**

4. Schedule 1 (which contains provisions relating to the establishment, modification, recognition and enforcement in Northern Ireland pursuant to the Convention of maintenance decisions made in States bound by the Convention which are not European Union Member States) has effect.

**Enforcement**

5. Schedule 2 (which contains provisions for the enforcement in Northern Ireland of certain international maintenance obligations in relation to children by way of driving disqualification orders) has effect.

**Provisions relating to information**

6. Schedule 3 (which contains provisions relating to access to, and the transmission and use of, information) has effect.

**Consequential amendments**

7. Schedule 4 (which makes consequential amendments) has effect.

**Amendments relating to the Maintenance Regulation**

8. Schedule 5 (which contains further amendments relating to the Maintenance Regulation) has effect.

Sealed with the Official Seal of the Department of Justice on 16th November 2012

L.S.

*David Ford*  
Minister of Justice

*Status: Point in time view as at 16/11/2012.*

*Changes to legislation: There are currently no known outstanding effects for the The International Recovery of Maintenance (Hague Convention 2007 etc.) Regulations (Northern Ireland) 2012. (See end of Document for details)*

## SCHEDULE 1

Regulation 4

### RECOGNITION AND ENFORCEMENT OF NON-EU MAINTENANCE DECISIONS, AND ESTABLISHMENT AND MODIFICATION OF MAINTENANCE UNDER THE CONVENTION

#### **Interpretation**

1.—(1) In this Schedule—

“Contracting State” means a State bound by the Convention other than an EU Member State;

“court”, in relation to a maintenance decision given in a Contracting State, includes a tribunal, and any administrative authority (within the meaning of Article 19(3)) with competence to make a decision in respect of a maintenance obligation;

“maintenance decision” means a decision, or part of a decision, made by a court in a Contracting State, to which Chapter V of the Convention applies by virtue of Article 19(1).

(2) In this Schedule any reference to a numbered Article is a reference to the Article so numbered in the Convention and any reference to a sub-division of a numbered Article shall be construed accordingly.

(3) Anything authorised or required by the Convention or by this Schedule to be done by, to or before a particular magistrates' court may be done by, to or before any magistrates' court acting for the same petty sessions district as that court.

#### **Recognition and enforcement of maintenance decisions made by courts in Contracting States**

2.—(1) Subject to sub-paragraph (2), the court in Northern Ireland to which an application for registration of a maintenance decision under the Convention is to be made is a magistrates' court.

(2) An application for registration is to be transmitted by the Department of Justice to the magistrates' court designated for these purposes by rules of court (“the registering court”).

(3) Jurisdiction in relation to applications for registration of maintenance decisions lies with the courts of Northern Ireland if—

(a) the person against whom enforcement is sought is resident in Northern Ireland, or

(b) assets belonging to that person and which are susceptible to enforcement are situated or held in Northern Ireland.

(4) An application for registration shall be determined in the first instance by the prescribed officer of the registering court. In this sub-paragraph and in sub-paragraph (5), “prescribed” means prescribed by rules of court.

(5) The decision of the prescribed officer may be appealed to the registering court in accordance with rules of court.

(6) For the purposes of the enforcement of a maintenance decision registered under the Convention in the registering court—

(a) the decision shall be of the same force and effect,

(b) the registering court shall have in relation to its enforcement the same powers, and

(c) proceedings for or with respect to its enforcement may be taken,

as if the decision had originally been made by the registering court.

(7) Sub-paragraph (6) is subject to sub-paragraph (8).

(8) A maintenance decision which is so registered shall be enforceable in a magistrates' court in Northern Ireland in the same manner as an order made by that court to which Article 98(11) of

the 1981 Order applies, subject to the modifications of Article 98 of the 1981 Order specified in section 5(6A) of the Civil Jurisdiction and Judgments Act 1982 <sup>M6</sup>.

In this sub-paragraph “the 1981 Order” means the Magistrates' Courts (Northern Ireland) Order 1981 <sup>M7</sup>.

(9) Sub-paragraph (6) is also subject to—

(a) paragraph 3;

(b) any provision made by rules of court as to the procedure for the enforcement of maintenance decisions registered in accordance with this paragraph.

(10) The debtor under a maintenance decision registered in accordance with this paragraph in a magistrates' court in Northern Ireland shall give notice of any change of address to the clerk of that court. In this sub-paragraph, “debtor” has the meaning given by Article 3.

(11) A person who without reasonable excuse fails to comply with sub-paragraph (10) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

#### Marginal Citations

**M6** 1982 C.27. Section 5(6A) was inserted by S.I. 1993/1576 (N.I. 6).

**M7** S.I. 1981/1675 (N.I. 26).

### Interest on judgments

3.—(1) Subject to sub-paragraphs (2) and (3) and rules of court as to the payment of interest under this paragraph, where a person applying for registration of a maintenance decision shows that—

(a) the decision provides for the payment of money, and

(b) in accordance with the law of the Contracting State in which the maintenance decision was given and the terms of the decision, interest on that sum is recoverable at a particular rate and from a particular date or time,

the debt resulting from registration of the decision is to carry interest at that rate and from that date or time.

(2) Interest is not recoverable under sub-paragraph (1) unless the rate of interest and the date or time referred to in sub-paragraph (1)(b) are registered with the decision.

(3) Interest on arrears of sums payable under a maintenance decision registered under the Convention in a magistrates' court in Northern Ireland shall not be recoverable in that court. But this sub-paragraph does not affect the operation in relation to any such maintenance decision of section 11A of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966 <sup>M8</sup> (which enables interest to be recovered if the decision is registered for enforcement in the High Court).

(4) Except as mentioned in sub-paragraph (3), debts under maintenance decisions registered in Northern Ireland under the Convention shall carry interest only as provided by this paragraph.

#### Marginal Citations

**M8** 1966 c.35 (N.I.). Section 11A was inserted by section 37 of and Part II of Schedule 11 to the *Civil Jurisdiction and Judgments Act 1981* (c.27).

*Status: Point in time view as at 16/11/2012.*

*Changes to legislation: There are currently no known outstanding effects for the The International Recovery of Maintenance (Hague Convention 2007 etc.) Regulations (Northern Ireland) 2012. (See end of Document for details)*

### **Currency of payments under a maintenance decision**

4.—(1) Sums payable under a maintenance decision registered in Northern Ireland under the Convention, including any arrears so payable, shall be paid in sterling.

(2) Where the maintenance decision is expressed in any other currency, the amounts shall be converted on the basis of the exchange rate prevailing on the date on which the application for registration was received by the Department of Justice for transmission to a court or received by the Lord Chancellor pursuant to Regulation 3(2).

(3) For the purposes of this paragraph, a written certificate purporting to be signed by an officer of any bank in the United Kingdom and stating the exchange rate prevailing on a specified date shall be evidence of the facts stated.

### **Proof and admissibility of certain maintenance decisions and related documents**

5.—(1) For the purposes of proceedings relating to the Convention a document, duly authenticated, which purports to be a copy of a maintenance decision given by a court in a Contracting State shall without further proof be deemed to be a true copy, unless the contrary is shown.

(2) A document purporting to be a copy of a maintenance decision given by a court in a Contracting State is duly authenticated for the purposes of this paragraph if it purports—

- (a) to bear the seal of that court; or
- (b) to be certified by any person in that person's capacity as a judge or officer of that court to be a true copy of a maintenance decision given by that court.

(3) Nothing in this paragraph shall prejudice the admission in evidence of any document which is admissible apart from this paragraph.

### **Maintenance arrangements**

6.—(1) References in this paragraph to maintenance arrangements are to those maintenance arrangements (as defined in Article 3(e)) which are to be recognised and enforceable in the same way as maintenance decisions by virtue of Article 30.

(2) In relation to a maintenance arrangement which is enforceable as a maintenance decision in the Contracting State of origin, this Schedule applies, subject to the modifications in sub-paragraphs (3), (4) and (5), as if that maintenance arrangement was a maintenance decision given by a court of that State.

(3) Paragraph 2 applies to maintenance arrangements as if—

- (a) in sub-paragraph (6), for “as if the decision had originally” there were substituted “ as if it were a decision which had originally ”;
- (b) after sub-paragraph (9)(b) there were inserted—
  - “(c) Article 30(6) (restriction on enforcement where there is a challenge to a maintenance arrangement in the Contracting State of origin).”.

(4) Paragraph 3 applies to maintenance arrangements as if in sub-paragraph (1)(b), for the word “given” there were substituted “ concluded ”.

(5) Paragraph 5 applies to maintenance arrangements as if—

- (a) in sub-paragraph (1), for “given by a court” there were substituted “ formally drawn up or registered as an authentic instrument by, or authenticated by, or concluded, registered or filed with a competent authority ”;
- (b) for sub-paragraph (2) there were substituted—

“(2) A document purporting to be a copy of a maintenance arrangement drawn up or registered as an authentic instrument by, or authenticated by, or concluded, registered or filed with a competent authority in a Contracting State is duly authenticated for the purposes of this paragraph if it purports to be certified to be a true copy of such an arrangement by a person duly authorised in that State to do so.”.

(6) Section 18 of the Civil Jurisdiction and Judgments Act 1982<sup>M9</sup> does not apply to maintenance arrangements.

#### Marginal Citations

M9 1982 c.27.

### Applications for establishment or modification of maintenance in Northern Ireland

7.—(1) Upon receipt of an application submitted under Article 10 for establishment or modification of a decision, the Department of Justice shall send that application to the clerk of a magistrates' court acting for the petty sessions district in which the respondent is residing.

(2) Upon receipt of the application under sub-paragraph (1), the clerk of that court shall decide—

- (a) whether the courts of Northern Ireland have jurisdiction to determine the application by virtue of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011<sup>M10</sup>; and
- (b) if so, whether the magistrates' court has power to make the decision or modification sought under—
  - (i) the Domestic Proceedings (Northern Ireland) Order 1980<sup>M11</sup>, or
  - (ii) Article 15 of and Schedule 1 to the Children (Northern Ireland) Order 1995<sup>M12</sup>.

(3) Where the clerk of petty sessions decides under sub-paragraph (2)(a) that the courts of Northern Ireland do not have jurisdiction to determine the application, the clerk shall return the application to the Department of Justice with a written explanation of the reasons for that decision.

(4) Where the clerk of petty sessions decides under sub-paragraph (2)(b) that the magistrates' court does not have power to make the decision or modification sought, the clerk shall send the application to—

- (a) the High Court, or
- (b) a county court

as appears to the clerk to be appropriate.

(5) Subject to sub-paragraph (6), if the clerk of petty sessions decides under sub-paragraph (2)(b) that the magistrates' court has power to make the decision or modification sought, the clerk of petty sessions shall issue the application and serve it on the respondent.

(6) If the respondent does not reside in the petty sessions district for which the magistrates' court acts, the clerk of petty sessions shall—

- (a) if satisfied that the respondent is residing within another petty sessions district, send the application to the clerk of petty sessions of a magistrates' court acting in that other petty sessions district and inform the Department of Justice that it has been so sent; or
- (b) if unable to establish where the respondent is residing, return the application to the Department of Justice.

**Status:** Point in time view as at 16/11/2012.

**Changes to legislation:** There are currently no known outstanding effects for the *The International Recovery of Maintenance (Hague Convention 2007 etc.) Regulations (Northern Ireland) 2012*. (See end of Document for details)

(7) A clerk of petty sessions who receives an application by virtue of sub-paragraph (6)(a) shall proceed under sub-paragraph (5) as if that clerk had decided that the magistrates' court has power to make the decision or modification sought.

(8) Where the clerk of petty sessions has determined in accordance with sub-paragraph (2)(b) that the magistrates' court has power to make the decision or modification sought, the application shall be treated for the purpose of establishment or modification of a decision under the Convention as an application under the Domestic Proceedings (Northern Ireland) Order 1980, or under Article 15 of and Schedule 1 to the Children (Northern Ireland) Order 1995, as appropriate.

(9) In this paragraph—

“respondent” means the person who is alleged in an application for establishment of a decision under Article 10 to owe maintenance, or where the application is for modification of a decision, the applicant for the original decision; and

a reference to an application is a reference to an application together with any documents which accompany it.

#### Marginal Citations

**M10** [S.I. 2011/1484](#).

**M11** [S.I. 1980/563](#) (NI 5).

**M12** [S.I. 1995/755](#) (NI 2).

## SCHEDULE 2

Regulation 5

### ENFORCEMENT OF INTERNATIONAL MAINTENANCE ORDERS – DRIVING DISQUALIFICATION ORDERS

#### Application

1. The provisions of this Schedule apply in relation to the enforcement of a maintenance decision relating to a child where that maintenance decision is registered for enforcement, or enforceable, by virtue of—

- (a) the 1968 Brussels Convention;
- (b) the 1988 Lugano Convention;
- (c) the Council Regulation;
- (d) the Lugano Convention;
- (e) the Maintenance Regulation; or
- (f) the Hague Convention.

#### Interpretation

2.—(1) In this Schedule—

“the 1981 Order” means the Magistrates' Courts (Northern Ireland) Order 1981;

“the 1968 Brussels Convention” means the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters signed at Brussels on 27th September 1968, as amended by the Conventions on the accession of new Member States to that Convention <sup>M13</sup>;



“the 1988 Lugano Convention” means the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters opened for signature at Lugano on 16th September 1988 <sup>M14</sup>;

“the Council Regulation” means Council Regulation (EC) No 44/2001 <sup>M15</sup> on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters;

“the Lugano Convention” means the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters signed on behalf of the European Community on 30th October 2007 <sup>M16</sup>;

“arrears” means a sum or sums payable to the creditor from the debtor which have fallen due under the terms of a maintenance decision and which the debtor has not paid;

“the court” means a magistrates' court;

“the creditor” means a person to whom a sum or sums of maintenance are owed by the debtor under the terms of a maintenance decision in relation to which an application under this Schedule is made, and includes—

- (a) a public body acting in place of an individual to whom maintenance is owed or to which reimbursement is owed for benefits provided in place of maintenance, to the extent that such a body may seek enforcement of a maintenance decision under the terms of an international agreement referred to in paragraph 1;
- (b) where there is in force an order that the sum or sums of maintenance be paid to the collecting officer of a petty sessions district, that officer;

“the debtor” means the person who is liable to pay a sum or sums to the creditor under the terms of the maintenance decision in relation to which a complaint referred to in paragraph 3(1) of this Schedule is made;

“driving disqualification order” means an order under paragraph 4(1)(a) of this Schedule;

“driving licence” means a licence to drive a motor vehicle granted under Part II of the Road Traffic (Northern Ireland) Order 1981 <sup>M17</sup>;

“maintenance decision” means a maintenance obligation to which an international agreement listed in paragraph 1 applies and which is enforceable in a magistrates' court in Northern Ireland in the same manner as an order by that court to which Article 98(11) of the 1981 Order applies.

(2) In this Schedule—

- (a) “child” means a person who—
  - (i) either—
    - (aa) has not attained the age of 16, or
    - (bb) has not attained the age of 20, and is receiving full time education or vocational training; and
  - (ii) is not or has not been party to a marriage, to a civil partnership or to an overseas relationship treated as a civil partnership under section 215 of the Civil Partnership Act 2004, and for the purposes of sub-paragraph (ii) “marriage” and “civil partnership” include a void marriage and a void civil partnership respectively;
- (b) references to Article 98 of the 1981 Order are to that provision as modified by section 5(6A) of the Civil Jurisdiction and Judgments Act 1982 <sup>M18</sup>.

#### Marginal Citations

**M13** OJ No.L 299, 31.12.1972 p.32; OJ L304, 30.10.1978 p.1; OJ L 388, 31.12.1982, p.1; OJ L285, 3.10.1989, p.1; OJ C 15, 15.1.1997 p.1. A consolidated version is available at OJ C 27, 16.1.1998, p.1.

**Status:** Point in time view as at 16/11/2012.

**Changes to legislation:** There are currently no known outstanding effects for the The International Recovery of Maintenance (Hague Convention 2007 etc.) Regulations (Northern Ireland) 2012. (See end of Document for details)

- M14** OJ No. L319, 25.11.88, p.9-48.  
**M15** OJ No. L12, 16.1.2001, p.1-23.  
**M16** OJ No. L339, 21.12.2007, p3.  
**M17** [S.I. 1981/154](#) (NI 1).  
**M18** [Section 5\(6A\)](#) inserted by [S.I. 1993/156](#) (NI.6).

### Application for a driving disqualification order

3.—(1) Where a creditor makes a complaint under Article 98 of the 1981 Order for enforcement of a maintenance decision, the court may make a driving disqualification order.

- (2) The court shall not make a driving disqualification order—
- (a) in the absence of the debtor;
  - (b) if it considers that, in a case in which it has power to do so, it is appropriate to—
    - (i) make an attachment of earnings order;
    - (ii) exercise its power under Article 98(8C)(b) of the 1981 Order; or
    - (iii) issue a warrant of distress for the purpose of recovering the arrears under Article 98(4) of the 1981 Order.

### Making of a driving disqualification order

4.—(1) If, but only if, the court is of the opinion that the failure to pay the arrears is due to wilful refusal or culpable neglect on the part of the debtor, it may—

- (a) make an order (a driving disqualification order) disqualifying the debtor from holding or obtaining a driving licence for such period specified in the order, not exceeding two years, as it thinks fit; or
- (b) make a driving disqualification order but suspend its operation until such time and on such conditions (if any) as it thinks just.

(2) The court shall not make a driving disqualification order unless it has enquired, in the presence of the debtor, as to—

- (a) the debtor's means;
- (b) whether the debtor needs a driving licence to earn his or her living;
- (c) whether the failure to pay the arrears is due to wilful refusal or culpable neglect on the part of the debtor.

5. A driving disqualification order shall state the amount of arrears in respect of which it is made and the period to which they relate and the amount may not exceed the arrears owing under the maintenance decision at the date on which the complaint referred to in paragraph 3 was made.

6. A court which makes a driving disqualification order shall require the person to whom it relates to produce any driving licence held by him or her, and its counterpart (within the meaning of Article 19D of the Road Traffic (Northern Ireland) Order 1981<sup>M19</sup>).

### Marginal Citations

- M19** [S.I. 1981/154](#) (NI 1).

7.—(1) The court shall not, in relation to arrears—

- (a) make a driving disqualification order during the currency of a warrant committing the debtor to prison in respect of the same arrears;
  - (b) issue a warrant committing the debtor to prison where a driving disqualification order has been made in respect of the same arrears but the period of disqualification specified in the driving disqualification order has not expired.
- (2) In sub-paragraph (1) —
- (a) references to a warrant committing the debtor to prison include such a warrant which has been postponed;
  - (b) references to a driving disqualification order include such an order which has been suspended in accordance with paragraph 4(1)(b); and
  - (c) references to the currency of a warrant or to the period of disqualification specified in a driving disqualification order, are to be read as including references to the period of postponement of a warrant or suspension of disqualification respectively.

#### **Variation, revocation and expiry of driving disqualification order**

8. On application by complaint by the creditor or the debtor, the court—
- (a) may, if part of the amount in respect of which the order is made is paid to any person authorised to receive it, make an order substituting a shorter period of disqualification, or make an order revoking the driving disqualification order, and
  - (b) shall, if the whole of the amount is so paid, make an order revoking the driving disqualification order.
9. Upon the making of a further complaint under Article 98 of the 1981 Order, the court may make a further driving disqualification order if the arrears in respect of which the driving disqualification order was made have not been paid in full when the period of disqualification specified in that order expires.

#### **Notification to the Department**

10. Where a court—
- (a) makes a driving disqualification order; or
  - (b) makes an order varying or revoking a driving disqualification order,

it shall send notice of that fact and any driving licence and its counterpart produced to the court to the Department of the Environment.

#### **Production of driving licence**

11. A lay magistrate may issue a summons to the debtor to produce to a magistrates' court any driving licence held by the debtor, and, where applicable, its counterpart, and issue a warrant for the debtor's arrest if the debtor does not comply.

### SCHEDULE 3

Regulation 6

#### PROVISIONS RELATING TO INFORMATION

1.—(1) Subject to the provisions of this Schedule, the following shall provide to the Central Authority such information listed at paragraph 3 as they hold in the course of their ordinary

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activities and which is necessary to facilitate establishment, modification, recognition, registration or enforcement of a maintenance obligation to which the Convention applies, except that provision of information may be refused where it would pose a threat to public safety or national security—

- (a) the Department for Employment and Learning;
- (b) the Department of the Environment;
- (c) the Department of Finance and Personnel;
- (d) the Department for Social Development.

(2) References to a Department include a person providing services to a Department.

2.—(1) The information shall be provided to the Central Authority upon its request.

(2) The Central Authority may not request the information unless the following conditions are met—

- (a) the application to which the request relates has been made under Chapter III of the Convention (applications through Central Authorities) or is an application for a specific measure under Article 7 relating to the location of the debtor or creditor, or to obtaining the information in Article 6(2)(c) (relevant financial circumstances);
- (b) the request is limited to information which is relevant for the establishment, modification, recognition, registration or enforcement (as the case may be) of the maintenance obligation in question.

3.—(1) Subject to sub-paragraphs (2) to (4), the information to be supplied under paragraph 1 is—

- (a) the address of the debtor or of the creditor;
- (b) details of the debtor's income;
- (c) the identity and contact details of the debtor's employer;
- (d) details of any deposit account or withdrawable share account that the debtor holds with a deposit-taker;
- (e) details of the debtor's assets.

(2) Where the application to which the request relates is for establishment or modification of a maintenance obligation, the Central Authority may only request the address of the debtor or of the creditor.

(3) The information at sub-paragraph (1)(e) may not be requested unless the information at sub-paragraphs (1)(b) to (d) is insufficient to enable enforcement of the maintenance obligation.

(4) Where the application to which the request relates is for a specific measure in accordance with paragraph 2(2)(a), the information in sub-paragraph (1)(b), (d) and (e)—

- (a) shall consist only of an indication as to whether the debtor has income or assets in Northern Ireland; and
- (b) shall be supplied only if the creditor produces to the Central Authority a copy of the maintenance obligation or an abstract from it together with the document required by Article 25(1)(b) or Article 30(3)(b), as appropriate, stating that it is enforceable in the Contracting State in which it was made,

and no information may be supplied in relation to the identity and contact details of the debtor's employer.

4. The Central Authority shall transmit the information received in accordance with this Schedule to—

- (a) the relevant court in Northern Ireland seised of the application referred to in paragraph 2(2)(a);

(b) where necessary, the requesting Central Authority,  
as appropriate.

5. Subject to the provisions of the Convention and of this Schedule, the persons and authorities to whom the Central Authority transmits information in accordance with this Schedule and the requirements of Articles 6 and 7 may process that information in any manner necessary to facilitate the adjudication and recovery of the maintenance obligation to which the request relates.

6. The Central Authority, any court to which it transfers information in accordance with paragraph 4, and any person or authority within the United Kingdom to whom that information is transmitted (whether by a court or by the Central Authority)—

- (a) may use information provided under this Schedule only for the purpose of facilitating recovery of maintenance in accordance with this Schedule and the Convention;
- (b) may not disclose to the applicant the information so provided, except that—
  - (i) the existence, or not as the case may be, of an address, income or assets in Northern Ireland may be so disclosed;
  - (ii) the information may be disclosed if required by rules of court;
- (c) may not store the information beyond the period necessary for the purpose it was provided to it.

7.—(1) Subject to paragraph 6(b), information referred to in paragraph 3(1) which is received by a Central Authority from a Department listed in paragraph 1 cannot be disclosed to another person unless the disclosure is in connection with a function of the Central Authority under Articles 6 and 7, and Chapter III.

(2) Sub-paragraph (1) does not apply to—

- (a) the disclosure of information which is in the form of a summary or collection of information so framed as not to enable identification of any person from the information;
- (b) disclosure which is made in pursuance of an order of a court;
- (c) disclosure which is required by any other enactment.

8.—(1) Subject to sub-paragraph (3), a person who—

- (a) is or has been employed by the Central Authority; or
- (b) provides or has provided services to the Central Authority,

is guilty of an offence if that person makes disclosure, otherwise than in accordance with this Schedule, of information referred to in paragraph 3 which has been obtained from the Department for Social Development and which relates to a person whose identity is specified in the information disclosed or can be deduced from it.

(2) It is a defence to prove that, at the time of the alleged offence, the person making the disclosure believed that the person was making the disclosure lawfully in accordance with this Schedule and the Convention, and had no reasonable cause to believe otherwise.

9. A person found guilty of an offence under this Schedule shall be liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years, to a fine or to both;
- (b) on summary conviction, to imprisonment for a term not exceeding 3 months or to a fine not exceeding the statutory maximum or to both.

10.—(1) In this Schedule—

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“Central Authority” means the Department of Justice and references to “Central Authority” include persons employed by or supplying services to the Central Authority;

“deposit-taker” means a person who may, in the course of their business, lawfully accept deposits in the United Kingdom;

“maintenance obligation” means any maintenance obligation to which the Convention (as applied by the United Kingdom) applies, and includes maintenance arrangements as defined in Article 3(e);

“requesting Central Authority” means the Central Authority of another Contracting State to the Convention which has made the request for information or sent the application under Article 10, or the specific measures request under Article 7.

(2) In this Schedule any reference to a numbered Article or Chapter is to the Article or Chapter so numbered in the Convention and any reference to a sub-division of a numbered Article shall be construed accordingly.

#### SCHEDULE 4

Regulation 7

#### CONSEQUENTIAL AMENDMENTS

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

1. In the Maintenance and Affiliation Orders Act (Northern Ireland) 1966, in section 10(5)—
  - (a) after “settlement” insert “, arrangement ”;
  - (b) for “in Northern Ireland under” substitute “in Northern Ireland under—  
(a)”;
    - (c) for “1972 or” substitute “1972,  
(b)”;
      - (d) for “1982 or” substitute “1982,  
(c)”;
        - (e) for “commercial matters shall” substitute “commercial matters, or  
(d) the Convention on the International Recovery of Child Support and other forms of Family Maintenance done at The Hague on 23rd November 2007,  
shall”.

##### **Magistrates' Courts (Northern Ireland) Order 1981 (NI 26)**

- 2.—(1) The Magistrates' Courts (Northern Ireland) Order 1981 is amended as follows.
- (2) In Article 86 (revocation, variation, etc., of orders for periodical payment) in paragraph (1A), after sub-paragraph (b), insert—
  - “(c) the Convention on the International Recovery of Child Support and other forms of Family Maintenance done at The Hague on 23rd November 2007;

- (d) Part 1 of the Civil Jurisdiction and Judgments Act 1982.”.
- (3) In Article 87 (remission of arrears and manner in which arrears to be paid)—
  - (a) in paragraph (1A), after sub-paragraph (b) insert—
    - “(c) the Convention on the International Recovery of Child Support and other forms of Family Maintenance done at The Hague on 23rd November 2007;
    - (d) Part 1 of the Civil Jurisdiction and Judgments Act 1982.”.
  - (b) in paragraph (7), in the definition of “non-Northern Ireland maintenance order”—
    - (i) the “or” at the end of sub-paragraph (a)(iv) is repealed;
    - (ii) at the end of sub-paragraph (a)(v) insert or
      - “(vi) under the Convention on the International Recovery of Child Support and other forms of Family Maintenance done at The Hague on 23rd November 2007;”.
- (4) In Article 88 (nature of domestic proceedings) at the end of sub-paragraph (a), insert “ or under the Convention on the International Recovery of Child Support and other forms of Family Maintenance done at The Hague on 23rd November 2007 ”.
- (5) In Article 98 (enforcement of orders for periodical payment of money) —
  - (a) in paragraph (1A)—
    - (i) for “by virtue of Council” substitute  
“by virtue of
      - (a) Council”;
    - (ii) for “Regulations 2011.” Substitute  
“Regulations 2011;
      - (b) the Convention on the International Recovery of Child Support and other forms of Family Maintenance done at The Hague on 23rd November 2007;  
or
      - (c) Part 1 of the Civil Jurisdiction and Judgments Act 1982.”;
  - (b) in paragraph (11)(b)—
    - (i) for “Northern Ireland under” substitute  
“Northern Ireland under
      - (i)”;
    - (ii) for “Act 1972 or” substitute  
“Act 1972,
      - (ii)”;
    - (iii) for “Act 1982 or” substitute  
“Act 1982,
      - (iii)”;
    - (iv) at the end insert  
“or
      - (iv) the Convention on the International Recovery of Child Support and other forms of Family Maintenance done at The Hague on 23rd November 2007;”;
  - (c) in paragraph (13)—
    - (i) the “and” at the end of sub-paragraph (a) is repealed;

**Status:** Point in time view as at 16/11/2012.

**Changes to legislation:** There are currently no known outstanding effects for the *The International Recovery of Maintenance (Hague Convention 2007 etc.) Regulations (Northern Ireland) 2012*. (See end of Document for details)

(ii) after sub-paragraph (b) insert—

“(c) the Convention on the International Recovery of Child Support and other forms of Family Maintenance done at The Hague on 23rd November 2007; and

(d) Part 1 of the Civil Jurisdiction and Judgements Act 1982.”.

### **Social Security Administration (Northern Ireland) Act 1992 (c.8)**

3. In section 103 of the Social Security Administration (Northern Ireland) Act 1992 (reduction of expenditure on income support: certain maintenance orders to be enforceable by the Department), in subsection (4)—

(a) the “and” at the end of paragraph (aa) is repealed;

(b) after paragraph (aa) insert—

“(ab) to apply for recognition and enforcement of the maintenance order under the Convention on the International Recovery of Child Support and other forms of Family Maintenance done at The Hague on 23rd November 2007, to the extent permitted by Article 36 of that Convention; and”.

## SCHEDULE 5

Regulation 8

### AMENDMENTS RELATING TO THE MAINTENANCE REGULATION

#### **Children (Northern Ireland) Order 1995 (NI 2)**

1.—(1) Schedule 1 to the Children (Northern Ireland) Order 1995 is amended as follows.

(2) For the italic heading before paragraph 16, substitute— “ Jurisdiction in relation to matters relating to maintenance ”

(3) In paragraph 16, for “the subject-matter of an application under paragraph 1 to this Schedule” substitute “ an application under paragraph 2 or 3 or part of such an application ”.

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### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make provision to facilitate the application of the Convention on the International Recovery of Child Support and other forms of Family Maintenance done at The Hague on 23rd November 2007 (“the Convention”) in Northern Ireland.

The Convention will be concluded by the European Union on a date yet to be determined by virtue of Council Decision 2011/432/EU (OJNo. L 192, 22.7.2011, pages 39 to 50). European Union Member States (apart from Denmark) are bound to apply the Convention by virtue of conclusion by the European Union.



Regulation 3 designates the Department of Justice as Central Authority for Northern Ireland as required by Article 4 of the Convention.

Regulation 4 and Schedule 1 make provision for the enforcement of maintenance decisions and maintenance arrangements made in Contracting States to the Convention by the courts of Northern Ireland. Provision is also made for the treatment by the Central Authority and by the courts of an application to establish maintenance received from the Central Authority of a Contracting State.

Regulation 5 and Schedule 2 enable courts to which an application is made to enforce a maintenance decision under certain international instruments to do so by way of a driving disqualification order. For the courts of Northern Ireland, the power to impose driving disqualification is provided within the existing process for enforcement following a complaint under Article 98 of the Magistrates' Courts (Northern Ireland) Order 1981.

Regulation 6 and Schedule 3 make provision to enable the Central Authorities for the Convention in Northern Ireland to request specific information from certain public bodies for use in recovery of maintenance in cases under the Convention. This power enables the Central Authorities to fulfil certain of their duties under the Convention (in particular, those under Article 6). The provisions broadly reflect those of Council Regulation (EC) No 4/2009 relating to cross border maintenance matters between the Member States of the European Union, and the provision made in support of that Regulation in the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 at Schedule 2.

Regulation 7 and Schedule 4 make amendments to legislation consequential upon the application of the Convention in Northern Ireland. Regulation 8 and Schedule 5 make further minor amendments consequential on the application of Council Regulation (EC) No 4/2009.

**Status:**

Point in time view as at 16/11/2012.

**Changes to legislation:**

There are currently no known outstanding effects for the The International Recovery of Maintenance (Hague Convention 2007 etc.) Regulations (Northern Ireland) 2012.