

STATUTORY INSTRUMENTS

1981 No. 1675

The Magistrates' Courts (Northern Ireland) Order 1981

PART VIII

CIVIL PROCEEDINGS UPON COMPLAINT

Modifications etc. (not altering text)

- C1** Pt. VIII (arts. 77-90) applied (1.10.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 58, 100(5), **Sch. 5 paras. 5(3), 10(2)** (with s. 101(2)); S.I. 2009/1493, **art. 2(a)(c)**
- C2** Pt. VIII (arts. 77-90) applied (prosp.) by Charities Act (Northern Ireland) 2008 (c. 12), **ss. 147(4), 185(1)**
- C3** Pt. VIII referred to by S.I. 1996/3158 (N.I.), art. 76D(4)(b) (as inserted (1.10.2016) by Licensing of Pavement Cafs Act (Northern Ireland) 2014 (c. 9), s. 32(1), **Sch. para. 2**; S.R. 2016/126, art. 2)

Jurisdiction exercisable upon civil complaint

Nature of jurisdiction upon civil complaint

77.—(1) For the purposes of this Part “civil matters” means a matter in which proceedings, other than proceedings under Parts V to VII, may be brought before a court of summary jurisdiction.

(2) Proceedings in a civil matter shall be upon complaint and in accordance with this Part.

^{F1}(3)

- F1** Art. 77(3) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 86(15), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

Time within which civil complaint must be made to give jurisdiction

78.—(1) Subject to this Article and Article 98(1) and to Article 35 of the Domestic Proceedings (Northern Ireland) Order 1980^{F2} and without prejudice to the provisions of any other enactment as to the time within which proceedings may be commenced, a court of summary jurisdiction shall not have jurisdiction to hear and determine a complaint in a civil matter unless the complaint is made within six months from the time when the cause of complaint arose, or, where the cause of complaint is a continuing one, from the time such cause last ceased to continue.

(2) Nothing in this Article shall prevent a court of summary jurisdiction from exercising the powers referred to in Article 86 at any time after an order for the periodical payment of money has been made.

- F2** 1980 NI 5

Status: Point in time view as at 19/10/2023.

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Modifications etc. (not altering text)

- C4** Art. 78(1) excluded (19.10.2023) by Protection from Stalking Act (Northern Ireland) 2022 (c. 17), ss. 12(3), 22(2); S.R. 2023/174, art. 2

Procedure upon complaint

Issue of summons upon civil complaint

79. Where a complaint in a civil matter is made to a justice of the peace^{F3}... upon which a court of summary jurisdiction^{F3}... has power to make an order against any person, the justice may issue a summons directed to that person requiring him to appear before that court to answer to the complaint.

- F3** Words in art. 79 repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 86(16), Sch. 9 Pt. 1 (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

Hearing of proceedings upon civil complaint

80.—(1) On the hearing of a complaint in a civil matter the court shall, if the defendant appears or is represented, state the substance of the complaint.

(2) The court, after hearing the evidence and any such representations as may be made by or on behalf of the parties, may make any order which it has jurisdiction to make upon the complaint or may dismiss the complaint.

(3) If the defendant or his representative on his behalf admits the truth of the complaint or consents, the court may, subject to any enactment to the contrary, make the order without hearing evidence.

Non-appearance of defendant

81.—(1) Where at the time and place appointed for the hearing or adjourned hearing of a complaint in a civil matter, the complainant appears but the defendant does not, the court may, without prejudice to its powers under this Order or any other enactment, adjourn or further adjourn or, subject to paragraph (2), proceed in his absence.

(2) The court shall not begin to hear the complaint or proceed in the absence of the defendant, unless either it is proved to the satisfaction of the court, upon oath or by affidavit or in such other manner as may be prescribed, that the summons was served on him within what appears to the court to be a reasonable time before the hearing or adjourned hearing or the defendant has appeared on a previous occasion to answer to the complaint.

Non-appearance of complainant

82. Where at the time and place appointed for the hearing or adjourned hearing of a complaint in a civil matter the defendant appears but the complainant does not, the court may dismiss the complaint, order it to be struck out, adjourn, further adjourn, or, if sufficient evidence has been received on a previous occasion, proceed in the absence of the complainant.

Non-appearance of both parties

83. Where at the time and place appointed for the hearing or adjourned hearing of a complaint in a civil matter neither the complainant nor the defendant appears the court may dismiss the complaint,

order it to be struck out or adjourn or further adjourn the hearing, or, if evidence has been received on a previous occasion, proceed in their absence.

Dismissal without prejudice to further complaint as to same matter

84.—(1) Where it has been unable for any reason to adjudicate upon the merits of a complaint in a civil matter, the court may order that the complaint be dismissed without prejudice to a further complaint alleging the same cause of complaint.

(2) Where the court, having adjudicated upon the merits of a complaint in a civil matter, dismisses the complaint the dismissal shall be expressed to be on the merits.

Powers exercisable upon civil complaint

[^{F4}Orders for periodical payment: means of payment

85.—(1) In any case where a court of summary jurisdiction orders money to be paid periodically by one person (“the debtor”) to another (“the creditor”), then—

- (a) if the order is a qualifying maintenance order, the court shall at the same time exercise one of its powers under sub-paragraphs (a) to (d) of paragraph (3);
- (b) if the order is not a maintenance order, the court shall at the same time exercise one of its powers under sub-paragraphs (a) and (b) of that paragraph.

(2) For the purposes of this Article a maintenance order is a “qualifying maintenance order” if, at the time it is made, the debtor is ordinarily resident in Northern Ireland.

(3) The powers of the court are—

- (a) the power to order that payments under the order be made directly by the debtor to the creditor;
- (b) the power to order that payments under the order be made to the collecting officer;
- (c) the power to order that payments under the order be made by the debtor to the creditor by such method of payment falling within paragraph (7) as may be specified;
- (d) the power to make an attachment of earnings order under Part IX to secure payments under the order.

(4) The collecting officer shall be the clerk of petty sessions or such other person as may be appointed by the Lord Chancellor as collecting officer ^{F5}....

(5) In any case where—

- (a) the court proposes to exercise its power under sub-paragraph (c) of paragraph (3), and
- (b) having given the debtor an opportunity of opening an account from which payments under the order may be made in accordance with the method of payment proposed to be ordered under that paragraph, the court is satisfied that the debtor has failed, without reasonable excuse, to open such an account,

the court in exercising its power under that paragraph may order that the debtor open such an account.

(6) In deciding, in the case of a maintenance order, which of the powers under sub-paragraphs (a) to (d) of paragraph (3) it is to exercise, the court having (if practicable) given them an opportunity to make representations shall have regard to any representations made—

- (a) by the debtor,
- (b) by the creditor, and

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- (c) if the person who applied for the maintenance order is a person other than the creditor, by that other person.
- (7) The methods of payment referred to in paragraph (3)(c) are the following, this is to say—
- (a) payment by standing order; or
 - (b) payment by any other method which requires one person to give his authority for payments of a specific amount to be made from an account of his to an account of another's on specific dates during the period for which the authority is in force and without the need for any further authority from him.
- (8) Where—
- (a) in the case of an order which is a qualifying maintenance order under—
Head (i) rep. by 1995 NI 2
 - (ii) the Domestic Proceedings (Northern Ireland) Order 1980^[F6], the Civil Partnership Act 2004^[F7]; or under, or having effect as if made under, Schedule 1 to the Children (Northern Ireland) Order 1995],
the court does not propose to exercise its power under sub-paragraph (c) or (d) of paragraph (3); or
 - (b) in the case of an order which is not a maintenance order under that Act or^[F7] those Orders],
the court does not propose to exercise its powers under sub-paragraph (a) of that paragraph,

the court shall, unless upon representations expressly made in that behalf by the person who applied for the order that it is satisfied that it is undesirable to do so, exercise its power under sub-paragraph (b) of that paragraph.
 - (9) The Lord Chancellor may by regulations confer on courts of summary jurisdiction, in addition to their powers under sub-paragraphs (a) to (d) of paragraph (3), the power (the “additional power”) to order that payments under a qualifying maintenance order be made by the debtor to the creditor or the collecting officer (as the regulations may provide) by such method of payment as may be specified in the regulations.
 - (10) Any reference in any statutory provision to sub-paragraphs (a) to (d) of paragraph (3) (but not a reference to any specific sub-paragraph of that paragraph) shall be taken to include a reference to the additional power, and the reference in paragraph (11) to the additional power shall be construed accordingly.
 - (11) Regulations under paragraph (9) may make provision for any statutory provision concerning, or connected with, payments under maintenance orders to apply, with or without modifications, in relation to the additional power.
 - (12) Regulations under paragraph (9) made by the Lord Chancellor shall be subject to ^[F8]negative resolution].
 - (13) Where a court of summary jurisdiction makes an order under paragraph (3)(b) there may be paid to the collecting officer (other than ^[F9]a civil servant in the Department of Justice]) by the Lord Chancellor a sum in respect of his remuneration and expenses not exceeding such percentage of the money actually paid through him as may be fixed by the Lord Chancellor.
 - (14) The person against whom an order referred to in paragraph (3)(b) has been made shall give notice to the collecting officer of any change of his address; and any person who fails to give such notice without reasonable excuse shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.
 - (15) For the purposes of this Article—
“debtor” and “creditor” shall be construed in accordance with paragraph (1);

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“maintenance order” means any order specified in Article 98(11) and includes any such order which has been rescinded, revoked or discharged if any arrears are recoverable under it; and the reference in paragraph (1) to money paid periodically by one person to another includes, in the case of a maintenance order, a reference to a lump sum paid by instalments by one person to another.]

- F4** 1993 NI 6
- F5** Words in art. 85(4) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 86(17), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)
- F6** 2004 c. 33
- F7** 1995 NI 2
- F8** Words in art. 85(12) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(5), **Sch. 18 para. 135** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F9** Words in art. 85(13) substituted (12.4.2010) by Northern Ireland Court Service (Abolition and Transfer of Functions) Order (Northern Ireland) 2010 (S.R. 2010/133), art. 4, **Sch. para. 15(3)** (with arts. 5-7)

Orders for periodical payment: proceedings by collecting officer

85A.—(1) Where payments under a relevant UK order are required to be made periodically—

- (a) to or through the collecting officer, or
- (b) by any method of payment falling within Article 85(7),

and any sums payable under the order are in arrear, the collecting officer^{F10}... shall, if the person for whose benefit the payments are required to be made so requests in writing, and unless it appears to the collecting officer that it is unreasonable in the circumstances to do so, proceed in his own name for the recovery of those sums.

(2) Where payments under a relevant UK order are required to be made periodically to or through the collecting officer, the person for whose benefit the payments are required to be made may, at any time during the period in which the payments are required to be so made, give authority in writing to the collecting officer^{F10}... for the collecting officer to proceed as mentioned in paragraph (3).

(3) Where authority under paragraph (2) is given to the collecting officer^{F10}..., the collecting officer shall, unless it appears to him that it is unreasonable in the circumstances to do so, proceed in his own name for the recovery of any sums payable to or through him under the order in question which, on or after the date of the giving of the authority, fall into arrear.

(4) In any case where—

- (a) authority under paragraph (2) has been given to the collecting officer^{F11}..., and
- (b) the person for whose benefit the payments are required to be made gives notice in writing to the collecting officer cancelling the authority,

the authority shall cease to have effect and, accordingly, the collecting officer shall not continue any proceedings already commenced by virtue of the authority.

(5) The person for whose benefit the payments are required to be made shall have the same liability for all the costs properly incurred in or about proceedings taken under paragraph (1) at his request or under paragraph (3) by virtue of his authority (including any costs incurred as a result of any proceedings commenced not being continued) as if the proceedings had been taken by him.

(6) Nothing in paragraph (1) or (3) shall affect any right of a person to proceed in his own name for the recovery of sums payable on his behalf under an order of any court.

(7) In this Article—

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“maintenance order” has the same meaning as it has in Article 85;

^{F12} ...

“relevant UK order” means—

- (a) an order made by a court of summary jurisdiction, other than an order made under Part II of the Maintenance Orders (Reciprocal Enforcement) Act 1972;
- (b) an order made by the High Court or a county court and registered under Part II of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966 in a court of summary jurisdiction; or
- (c) an order made by the High Court in England and Wales or by the Court of Session in Scotland registered in accordance with section 36 of the Civil Jurisdiction and Judgments Act 1982 in a court of summary jurisdiction; and
- (d) an order made by a county court or a magistrates' court in England and Wales or a sheriff court in Scotland and registered under Part II of the Maintenance Orders Act 1950 in a court of summary jurisdiction;

and any reference to payments required to be made periodically includes, in the case of a maintenance order, a reference to instalments required to be paid in respect of a lump sum payable by instalments.

- F10** Words in arts. 85A(1)–(3) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 86(18)(a), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)
- F11** Words in art. 85A(4)(a) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 86(18)(b), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)
- F12** Words in art. 85A(7) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 86(18)(c), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

Maintenance orders: penalty for breach

85B.—(1) In any case where—

- (a) payments under a relevant Northern Ireland maintenance order are required to be made periodically in the manner mentioned in sub-paragraph (a) or (b) of Article 85A(1), and
- (b) the debtor fails, on or after the date of coming into operation of this Article, to comply with the order in so far as the order relates to the manner of payment concerned,

the person for whose benefit the payments are required to be made may make a complaint to a justice of the peace ^{F13}... giving details of the failure to comply.

(2) If the justice of peace is satisfied that the nature of the alleged failure to comply may be such as to justify [^{F14}a court of summary jurisdiction] in exercising its power under paragraph (3), he shall issue a summons directed to the debtor requiring him to appear before [^{F14}a court of summary jurisdiction] to answer the complaint.

(3) On the hearing of the complaint, the [^{F15}court of summary jurisdiction] may order the debtor to pay a sum not exceeding £1000.

(4) Any sum ordered to be paid under paragraph (3) shall for the purposes of this Order be treated as adjudged to be paid by a conviction of a magistrates' court.

(5) In this Article—

“debtor” has the same meaning as it has in Article 85;

“maintenance order” has the same meaning as it has in Article 85;

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F16 ...

“relevant Northern Ireland maintenance order” means—

- (a) a maintenance order made by a court of summary jurisdiction, other than an order made under Part II of the Maintenance Orders (Reciprocal Enforcement) Act 1972; or
- (b) an order made by the High Court or a county court and registered under Part II of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966 in a court of summary jurisdiction;

and any reference to payments required to be made periodically includes a reference to instalments required to be paid in respect of a lump sum payable by instalments.

<p>F13 Words in art. 85B(1) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 86(19)(a), Sch. 9 Pt. 1 (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)</p> <p>F14 Words in art. 85B(2) substituted (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 86(19)(b) (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k) (with art. 3)</p> <p>F15 Words in art. 85B(3) substituted (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 86(19)(c) (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k) (with art. 3)</p> <p>F16 Words in art. 85B(5) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 86(19)(d), Sch. 9 Pt. 1 (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)</p>

Revocation, variation, etc., of orders for periodical payment

86.—(1) Without prejudice to the provisions of any enactment specified in Article 98(11) and subject to Article 25(2) of the Domestic Proceedings (Northern Ireland) Order 1980^[F17] and paragraph 42 of Schedule 16 to the Civil Partnership Act 2004], where a court of summary jurisdiction has made an order for money to be paid periodically by one person to another, the court may, by order on complaint, revoke, revive, discharge or vary the order.

[^{F18}(1A) The power under paragraph (1) is not exercisable in relation to a maintenance order which falls to be enforced by a court of summary jurisdiction by virtue of—

- ^{F19}(a)
- (b) Council Regulation (EC) No 44/2001 of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.]
- [^{F20}(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.]

(2) The power under paragraph (1) to vary an order shall include power to suspend the operation of any provision of the order temporarily and to revive the operation of any provision so suspended.

(3) Where the order mentioned in paragraph (1) is a maintenance order, the power under that paragraph to vary the 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 sub-paragraphs (a) to (d) of Article 85(3).

(4) In any case where—

- (a) a court of summary jurisdiction has made a maintenance order, and
- (b) payments under the order are required to be made by any method of payment falling within Article 85(7),

an interested party may apply in writing to the clerk of petty sessions for the order to be varied as mentioned in paragraph (5).

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(5) Subject to paragraph (8), where an application has been made under paragraph (4), the clerk, after serving written notice of the application on any other interested party and allowing that party, within the period of 14 days from the date of the serving of that notice, an opportunity to make written representations, may vary the order to provide that payments under the order shall be made to the collecting officer.

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

(7) In paragraphs (4) to (6) “interested party”, in relation to a maintenance order, means—

- (a) the debtor;
- (b) the creditor; and
- (c) if the person who applied for the maintenance order is a person other than the creditor, that other person.

(8) Where an application has been made under paragraph (4), the clerk may, if he considers it inappropriate to exercise his power under paragraph (5), refer the matter to the court which may vary the order by exercising one of its powers under sub-paragraphs (a) to (d) of Article 85(3).

(9) Paragraphs (5), (6) and (8) of Article 85 shall apply for the purposes of paragraphs (3) and (8) as they apply for the purposes of that Article.

(10) None of the powers of the court, or of the clerk of petty sessions, conferred by paragraphs (3) to (9) shall be exercisable in relation to a maintenance order which is not a qualifying maintenance order (within the meaning of Article 85).

(11) For the purposes of this Article—

“creditor” and “debtor” have the same meaning as they have in Article 85;

“maintenance order” has the same meaning as it has in Article 85; and

the reference in paragraph (1) to money paid periodically by one person to another includes, in the case of a maintenance order, a reference to a lump sum paid by instalments by one person to another.

F17 2004 c. 33

F18 Art. 86(1A) inserted (18.6.2011) by [Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011](#) (S.I. 2011/1484), reg. 9, **Sch. 7 para. 20(2)**

F19 Art. 86(1A)(a) omitted (31.12.2020) by virtue of [The Jurisdiction and Judgments \(Family\) \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/519), reg. 1(1), **Sch. para. 10(2)** (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)

F20 Art. 86(1A)(c)(d) inserted (1.8.2014) by [The International Recovery of Maintenance \(Hague Convention 2007 etc.\) Regulations \(Northern Ireland\) 2012](#) (S.R. 2012/413), reg. 1(1), **Sch. 4 para. 2(2)**

^{F21}Interest on arrears

86A.—(1) The Lord Chancellor may by order provide that a court of summary jurisdiction, on the hearing of a complaint for the enforcement, revocation, revival, variation or discharge of a Northern Ireland maintenance order, may order that interest of an amount calculated at the prescribed rate be paid on so much of the sum due under the order as the court may determine.

(2) In paragraph (1) “the prescribed rate” means such rate of interest as the Lord Chancellor may by order prescribe.

(3) An order under this Article may make provision for the manner in which and the periods by reference to which interest is to be calculated.

(4) Where, by virtue of paragraph (1), a court of summary jurisdiction orders the payment of interest on any sum due under a maintenance order—

- (a) then if it orders that the whole or any part of the interest be paid by instalments that order shall be regarded as an instalments order for the purposes of Article 87 and that Article shall accordingly apply in relation to it; and
- (b) the whole of the interest shall be enforceable as a sum adjudged to be paid by the maintenance order.

(5) In this Article—

“Northern Ireland maintenance order” means—

- (a) a qualifying maintenance order made by a court of summary jurisdiction, other than an order made by virtue of Part II of the Maintenance Orders (Reciprocal Enforcement) Act 1972; or
- (b) an order made by the High Court or a county court and registered under Part II of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966 in a court of summary jurisdiction;

“qualifying maintenance order” has the same meaning as it has in Article 85.

(6) An order under this Article made by the Lord Chancellor shall be made with the concurrence of the Treasury and shall be subject to [F22negative resolution.]

F21 1993 NI 6

F22 Words in art. 86A(6) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(5), **Sch. 18 para. 136** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

Modifications etc. (not altering text)

C5 Art. 86A(6): functions of Treasury or Minister for the Civil Service transferred to Department of Finance and Personnel (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), **15(4)(f)** (with arts. 15(6), 28-31); S.I. 2010/977, **art. 1(2)**

[F23**Remission of arrears and manner in which arrears to be paid**

87.—(1) On the hearing of a complaint for the enforcement, revocation, revival, variation or discharge of a maintenance order made by a court of summary jurisdiction, a court of summary jurisdiction may remit the whole or any part of the sum due under the order.

[
F24(1A) The power under paragraph (1) is not exercisable in relation to a maintenance order which falls to be enforced by a court of summary jurisdiction by virtue of—

- F25(a)
- (b) Council Regulation (EC) No 44/2001 of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.]
[the Convention on the International Recovery of Child Support and other forms of Family
- F26(c) Maintenance done at The Hague on 23rd November 2007;
- (d) Part 1 of the Civil Jurisdiction and Judgments Act 1982.]

(2) If, on the hearing of a complaint for the enforcement, revocation, revival, variation or discharge of a maintenance order made by a court of summary jurisdiction, a court of summary

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jurisdiction orders that the whole or any part of the sum due under the order be paid by instalments (an “instalments order”), then—

- (a) if the maintenance order is a Northern Ireland maintenance order, the court shall at the same time exercise one of its powers under sub-paragraphs (a) to (d) of Article 85(3) in relation to the instalments order;
 - (b) if the maintenance order is a non-Northern Ireland maintenance order, the court shall at the same time exercise one of its powers under paragraph (3) in relation to the instalments order.
- (3) The powers of the court referred to in paragraph (2)(b) 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) as may be specified;
 - (c) the power to make an attachment of earnings order under Part IX to secure payments under the order.
- (4) The court may in the course of any proceedings concerning an instalments order or the maintenance order made by a court of summary jurisdiction to which it relates vary the instalments order by exercising—
- (a) in respect of a Northern Ireland maintenance order, one of the powers referred to in paragraph (2)(a);
 - (b) in respect of a non-Northern Ireland maintenance order, one of its powers under paragraph (3).
- (5) In respect of a Northern Ireland maintenance order, paragraphs (5), (6) and (8) of Article 85 shall apply for the purposes of paragraphs (2)(a) and (4)(a) as they apply for the purposes of that Article.
- (6) In respect of a non-Northern Ireland maintenance order—
- (a) paragraph (5) of Article 85 shall apply for the purposes of paragraphs (2)(b) and (4)(b) as they apply 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 87(3);” ; and
 - (b) in deciding which of the powers under paragraph (3) it is to exercise the court shall have regard to any representations made by the debtor (within the meaning of Article 85).
- (7) In this Article—
- “maintenance order” has the same meaning as it has in Article 85;
- “Northern Ireland maintenance order” has the same meaning as it has in Article 86A;
- “non-Northern Ireland maintenance order” means—
- (a) a maintenance order registered in, or confirmed by, a court of summary jurisdiction—
 - (i) under the Maintenance Orders (Facilities for Enforcement) Act 1920;
 - (ii) under Part II of the Maintenance Orders Act 1950;
 - (iii) under Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972;^{F27} . . .
 - (iv) under Part I of the Civil Jurisdiction and Judgments Act 1982;^{F28} [^{F27} . . .]
 - (v) [^{F27} under Council Regulation (EC) No. 44/2001 of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgements in civil and commercial matters [^{F29}, as amended from time to time and as applied by the

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Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters];^{F30}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;]
 - (b) an order made by the High Court in England and Wales or by the Court of Session in Scotland and registered in accordance with section 36 of the Civil Jurisdiction and Judgments Act 1982 in a court of summary jurisdiction; [^{F31} or]^{F32} . . .
 - (c) a maintenance order made by a magistrates' court by virtue of Part II of the Maintenance Orders (Reciprocal Enforcement) Act 1972.
- ^{F33} ...
- (d) ^{F33} ...]

- F23** 1993 NI 6
- F24** Art. 87(1A) inserted (18.6.2011) by Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 (S.I. 2011/1484), reg. 9, **Sch. 7 para. 20(4)**
- F25** Art. 87(1A)(a) omitted (31.12.2020) by virtue of The Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/519), reg. 1(1), **Sch. para. 10(3)(a)** (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F26** Art. 87(1A)(c)(d) inserted (1.8.2014) by The International Recovery of Maintenance (Hague Convention 2007 etc.) Regulations (Northern Ireland) 2012 (S.R. 2012/413), reg. 1(1), **Sch. 4 para. 2(3)(a)**
- F27** SI 2001/3929
- F28** Word in art. 87(7) repealed (1.8.2014) by The International Recovery of Maintenance (Hague Convention 2007 etc.) Regulations (Northern Ireland) 2012 (S.R. 2012/413), reg. 1(1), **Sch. 4 para. 2(3)(b)(i)**
- F29** Words in art. 87(7) inserted (1.7.2007) by Civil Jurisdiction and Judgments Regulations 2007 (S.I. 2007/1655), reg. 5, **Sch. para. 23**
- F30** Words in art. 87(7) inserted (1.8.2014) by The International Recovery of Maintenance (Hague Convention 2007 etc.) Regulations (Northern Ireland) 2012 (S.R. 2012/413), reg. 1(1), **Sch. 4 para. 2(3)(b)(ii)**
- F31** Word in art. 87(7)(b) inserted (31.12.2020) by The Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/519), reg. 1(1), **Sch. para. 10(3)(b)(i)** (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F32** Word in art. 87(7) repealed (18.6.2011) by Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 (S.I. 2011/1484), reg. 9, **Sch. 7 para. 20(5)(a)**
- F33** Art. 87(7)(d) and word omitted (31.12.2020) by virtue of The Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/519), reg. 1(1), **Sch. para. 10(3)(b)(ii)** (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)

Domestic proceedings

Nature of domestic proceedings

88. In this Order the expression “domestic proceedings” means proceedings—

- (a) under the Maintenance Orders (Facilities for Enforcement) Act 1920^{F34F35} . . . or Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972^{F36}^{F35} or under Part I of the Civil Jurisdiction and Judgments Act 1982 so far as that Part relates to the recognition and enforcement of maintenance orders]^{F37F38} ...^{F39}^{F40} or under the Convention on the

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International Recovery of Child Support and other forms of Family Maintenance done at The Hague on 23rd November 2007];]]

- [^{F35}(aa) in relation to maintenance orders registered in a court of summary jurisdiction under the Maintenance Orders Act 1950 or Part II of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966 or section 36 of the Civil Jurisdiction and Judgments Act 1982, under that Act of 1950 or Part II of that Act of 1966]
- (b) under the Illegitimate Children (Affiliation Orders) Act (Northern Ireland) 1924;
- (c) under Article 101 of the Health and Personal Social Services (Northern Ireland) Order 1972^{F41}[^{F42} or section 101 of the Social Security Administration (Northern Ireland) Act 1992];
- [^{F43}(cc) under Article 37 of the Matrimonial Causes (Northern Ireland) Order 1978;]
- (d) under the Domestic Proceedings (Northern Ireland) Order 1980;
- [^{F44}(dd) under Article 22 of the Child Support (Northern Ireland) Order 1991 (so far as appeals under that Article are, by virtue of Article 2 of the Child Support Appeals (Jurisdiction of Courts) Order (Northern Ireland) 1993, to be made to a court of summary jurisdiction) or under Article 28 of the Child Support (Northern Ireland) Order 1991;
- (de) under the Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992;]
- [^{F45}(df) under the Children (Northern Ireland) Order 1995;]
- [^{F46}(dg) under the Family Homes and Domestic Violence (Northern Ireland) Order 1998;]
- [^{F47}(dh) under Article 31B of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989;]
- [^{F48}(di) under paragraph 54 of Schedule 15 to the Civil Partnership Act 2004 or under Schedule 16 to that Act;]
- [^{F49}(dj) under Regulation (EU) No 606/2013 of the European Parliament and of the Council of 12 June 2013 on mutual recognition of protection measures in civil matters;]
- (e) under Article 87 or Article 98 in relation to orders made under any of the enactments referred to in the foregoing paragraphs; or
- (f) under any enactment specified in the preceding paragraphs as applied or extended by or for the purposes of any other enactment.

F34 1920 c. 33

F35 1982 c. 27

F36 1972 c. 18

F37 SI 2001/3929

F38 Words in art. 88(a) omitted (31.12.2020) by virtue of [The Jurisdiction and Judgments \(Family\) \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/519), reg. 1(1), **Sch. para. 10(4)** (with reg. 8) (as amended by [S.I. 2020/1574](#), regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)

F39 Words in art. 88(a) substituted (18.6.2011) by [Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011](#) (S.I. 2011/1484), reg. 9, **Sch. 7 para. 20(6)**

F40 Words in art. 88(a) inserted (1.8.2014) by [The International Recovery of Maintenance \(Hague Convention 2007 etc.\) Regulations \(Northern Ireland\) 2012](#) (S.R. 2012/413), reg. 1(1), **Sch. 4 para. 2(4)**

F41 1972 NI 14

F42 1992 c. 9

F43 1989 NI 4

F44 SR 1993/98

- F45** 1995 NI 2
- F46** 1998 NI 6
- F47** 2000 c. 4 (NI)
- F48** 2004 c. 33
- F49** Art. 88(dj) inserted (11.1.2015) by [The Civil Jurisdiction and Judgments \(Protection Measures\) Regulations 2014 \(S.I. 2014/3298\)](#), regs. 1(4), 6

Sitting of court for domestic proceedings

89.—(1) The business of courts of summary jurisdiction shall, so far as is consistent with the due despatch of business, be arranged in such manner as may be requisite for separating the hearing or determination of domestic proceedings from other business.

(2) No person shall be present during the hearing or determination by a court of summary jurisdiction of any domestic proceedings except—

- (a) members and officers of the court;
- (b) parties to the proceedings before the court, their solicitors and counsel, witnesses and other persons directly concerned in those proceedings;
- (c) solicitors and counsel in attendance for other proceedings;
- (d) representatives of newspapers or news agencies; and
- (e) any other person who appears to the court to have adequate grounds for attendance.

(3) For the purposes of taking any evidence of an indecent character in any domestic proceedings, the court may, if it thinks necessary in the interest of the administration of justice or of public decency, direct that all or any persons not being members or officers of the court or parties to the proceedings, their solicitors or counsel, or other persons directly concerned in the proceedings, be excluded from the court during the taking of that evidence.

(4) The powers conferred on a court of summary jurisdiction by this Article shall be in addition and without prejudice to any other powers of the court to hear proceedings in camera or to exclude a witness until his evidence is required.

Newspaper reports of domestic proceedings

90.—^{F50}(1) A person to whom this paragraph applies shall not—

- (a) print or publish, or cause or procure to be printed or published, in a newspaper or periodical, or
- (b) include, or cause or procure to be included, in a programme included in a programme service (within the meaning of the Broadcasting Act 1990) for reception in Northern Ireland,

any particulars of any domestic proceedings other than such particulars as are mentioned in paragraph (1A) below.

(1A) The particulars referred to in paragraph (1) above are—

- (a) the names, addresses and occupations of the parties and witnesses;
- (b) the grounds of the application, and a concise statement of the charges, defences and counter-charges in support of which evidence has been given;
- (c) submissions on any point of law arising in the course of the proceedings, and decisions of the court on the submissions; and
- (d) the decisions of the court, and any observations made by the court in giving its decision.

(1B) Paragraph (1) above applies—

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- (a) in relation to sub-paragraph (a) of that paragraph, to the proprietor, editor or publisher of the newspaper or periodical, and
- (b) in relation to sub-paragraph (b) of that paragraph, to any body corporate which provides the service in which the programme is included and to any person having functions in relation to the programme corresponding to those of an editor of a newspaper.]

(2) If any person acts in contravention of the provisions of this Article he shall be guilty of an offence and shall be liable on summary conviction to imprisonment for a term not exceeding four months or to a fine not exceeding^{F51} level 3 on the standard scale], or to both.

(3) A prosecution for an offence under this Article shall not be instituted otherwise than by or with the consent of the Attorney General.

^{F52}(4) For the purposes of Article 7(2) of the Prosecution of Offences (Northern Ireland) Order 1972, paragraph (3) shall be deemed to be a relevant consent provision passed before 30th March 1972.

(5) Nothing in this Article shall apply to the printing or publishing of any matter in any newspaper or periodical of a technical character bona fide intended for circulation among members of the legal or medical profession.

F50 1990 c. 42

F51 1984 NI 3

F52 prosp. rep. by 2002 c. 26

Status:

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