

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 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,

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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—

“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.