

SCHEDULES

SCHEDULE 9

AMENDMENTS

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

101. In Article 2(2) (interpretation)—

- (a) in the definition of “child”, for the words from “an illegitimate” to “both parties” substitute “a child whose father and mother were not married to each other at the time of his birth within the meaning of Article 155 of the Children (Northern Ireland) Order 1995”;
- (b) in the definition of “child of the family”, for “being boarded out with those parties by the Department” substitute “placed with those parties as foster parents by an authority within the meaning of the Children (Northern Ireland) Order 1995”.

102. For Article 10 (orders for the custody of, or access to, children) substitute the following Article—

“Restrictions on making of orders: welfare of children

10. Where an application is made by a party to a marriage for an order under Article 4, 8 or 9, then, if there is a child of the family who is under the age of 18, the court shall not dismiss or make a final order on the application until it has decided whether to exercise any of its powers under the Children (Northern Ireland) Order 1995 with respect to the child.”.

103. In Article 20(3A)(b) (interim maintenance orders, etc.), for “paragraphs (2) and” substitute “paragraph”.

104. In Article 22 (variation, revival and revocation of orders for periodical payments), for paragraph (12) substitute the following paragraph—

“(12) An application under this Article may be made—

- (a) where it is for the variation or revocation of an order under Article 4, 8, 9 or 20 for periodical payments, by either party to the marriage in question; and
- (b) where it is for the variation of an order made under Article 4(1)(c), 8 or 9 for periodical payments to or in respect of a child, also by the child himself, if he has attained the age of 16.”.

105. After Article 22A insert the following Article—

“Revival of orders for periodical payments

22B.—(1) Where an order made by the court under this Order for the making of periodical payments to or in respect of a child (other than an interim maintenance order) ceases to have effect—

- (a) on the date on which the child attains the age of 16, or
- (b) at any time after that date but before or on the date on which he attains the age of 18,

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the child may apply to the court for an order for its revival.

(2) If on such an application it appears to the court that—

- (a) the child is, will be or (if an order were made under this paragraph) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not while in gainful employment, or
- (b) there are special circumstances which justify the making of an order under this paragraph,

the court shall have power by order to revive the order from such date as the court may specify, not being earlier than the date of the making of the application.

(3) Any order revived under this Article may be varied or revoked under Article 22 in the same way as it could have been varied or revoked had it continued in being.”.

106. In Article 25(1) (supplementary provisions with respect to variation and revocation of orders)—

- (a) for “16(3), 22 or 23” substitute “22”;
- (b) for “Article 22” substitute “that Article”.

107.—(1) In Article 27 (effect on certain orders of parties living together), in paragraph (1), for “, 8 or 13(2)” substitute “or 8”.

(2) In paragraph (2) of that Article—

- (a) in sub-paragraph (a), for “, 8 or 13(2)” substitute “or 8”;
- (b) at the end of that sub-paragraph, add “or”.

108. In Article 31(5) (appeals), for “Articles 16(3), 22 and 23” substitute “Article 22”.

“(1) Article 165 of the Children (Northern Ireland) Order 1995 (provision which may be made by magistrates' courts rules, etc.) shall apply for the purpose of giving effect to this Order as it applies for the purpose of giving effect to that Order, except that in the application of that Article by virtue of this paragraph “relevant proceedings” means any application made, or proceedings brought, under this Order and any part of such proceedings.”.

110. In Article 39 (provisions as to payments required to be made to a child, etc.)—

- (a) in paragraph (2) for “22(10)” substitute “22B”;
- (b) in paragraph (5) for “in the care of the Department, the Department” substitute “looked after by an authority (within the meaning of the Children (Northern Ireland) Order 1995), that authority”.