

SCHEDULE

Regulation 9

CONSEQUENTIAL AMENDMENTS

The Debtors (Scotland) Act 1987

- 1.—(1) The Debtors (Scotland) Act 1987(1) is amended as follows.
- (2) In section 54 (current maintenance arrestment to be preceded by default)—
 - (a) in subsection (1)(a)(ii), for “or (h)” substitute “, (h) or (k)”; and
 - (b) in subsection (2)(a), for “or (ga)” substitute “, (ga) or (k)”.
- (3) In section 55 (review and termination of current maintenance arrestment), in subsection (9), for “or (ga)” substitute “, (ga) or (k)”.
- (4) In section 66 (recall and variation of conjoined arrestment order), in subsection (5), for “or (ga)” substitute “, (ga) or (k)”.
- (5) In section 73 (interpretation of Part 3), in subsection (1), in the definition of “decree or other document”—
 - (a) at the end of paragraph (d), omit “or”; and
 - (b) after paragraph (e) insert—
 - “(f) a court settlement or authentic instrument (within the meaning of Article 2 of the Maintenance Regulation) which is—
 - (i) registered in the sheriff court under the 2011 Regulations; or
 - (ii) otherwise enforceable in Scotland by virtue of the Maintenance Regulation and the 2011 Regulations; or
 - (g) a maintenance arrangement (within the meaning of Article 3(e) of the Hague Convention) which is registered in the sheriff court under the Hague Convention.”.
- (6) In section 73A (arrestment and action of furthcoming to proceed only on decree or document of debt), in subsection (4)—
 - (a) in the definition of “decree”, omit paragraph (da); and
 - (b) in the definition of “document of debt”—
 - (i) at the end of paragraph (a), omit “or”;
 - (ii) after paragraph (b) insert—
 - “(c) a court settlement or authentic instrument (within the meaning of Article 2 of the Maintenance Regulation) which is—
 - (i) registered in the sheriff court under the 2011 Regulations; or
 - (ii) otherwise enforceable in Scotland by virtue of the Maintenance Regulation and the 2011 Regulations; or
 - (d) a maintenance arrangement (within the meaning of Article 3(e) of the Hague Convention) which is registered in the sheriff court under the Hague Convention.”; and
 - (iii) for “being a document or settlement”, substitute “being a document, settlement, instrument or arrangement”.
- (7) In section 106 (interpretation)—

(1) 1987 c.18.

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- (a) before the definition of “current maintenance”, insert—
 - ““the 2011 Regulations” means the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 (S.I. 2011/1484);”;
- (b) after the definition of “enactment”, insert—
 - ““the Hague Convention” means 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 the definition of “maintenance order”—
 - (i) in paragraph (aa) for “Civil Jurisdiction and Judgments (Maintenance) Regulations 2011” substitute “2011 Regulations”;
 - (ii) in paragraph (ga) for “Civil Jurisdiction and Judgments (Maintenance) Regulations 2011” substitute “2011 Regulations”;
 - (iii) at the end of paragraph (h), omit “or”; and
 - (iv) after paragraph (j) insert—
 - “; or
 - (k) a maintenance decision (within the meaning of regulation 2 of the International Recovery of Maintenance (Hague Convention 2007) (Scotland) Regulations 2012 (S.S.I. 2012/301) or maintenance arrangement (within the meaning of Article 3(e) of the Hague Convention) which is registered in the sheriff court under the Hague Convention.”.

The Debt Arrangement and Attachment (Scotland) Act 2002

- 2.—(1) The Debt Arrangement and Attachment (Scotland) Act 2002(2) is amended as follows.
- (2) In section 10 (attachment), in subsection (5)—
- (a) before the definition of “debt advice and information package” insert—
 - ““the 2011 Regulations” means the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 (S.I. 2011/1484);”;
 - (b) in the definition of “document of debt”—
 - (i) at the end of paragraph (a), omit “or”;
 - (ii) after paragraph (b) insert—
 - “(c) a court settlement or authentic instrument (within the meaning of Article 2 of the Maintenance Regulation) which is—
 - (i) registered in the sheriff court under the 2011 Regulations; or
 - (ii) otherwise enforceable in Scotland by virtue of the Maintenance Regulation and the 2011 Regulations; or
 - (d) a maintenance arrangement (within the meaning of Article 3 of the Hague Convention) which is registered in the sheriff court under the Hague Convention,”; and
 - (c) for “being a document, bill or settlement”, substitute “being a document, bill, settlement, instrument or arrangement”; and
 - (d) after the definition of “document of debt” insert—

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

“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 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.”.

The Bankruptcy and Diligence etc. (Scotland) Act 2007

3.—(1) The Bankruptcy and Diligence etc. (Scotland) Act 2007(3) is amended as follows.

(2) In section 221 (interpretation)—

(a) after the definition of the “2002 Act” insert—

““the 2011 Regulations” means the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 (S.I. 2011/1484);”;

(b) in the definition of “document of debt”—

(i) at the end of paragraph (b), omit “or”;

(ii) after paragraph (c) insert—

“(d) a court settlement or authentic instrument (within the meaning of Article 2 of the Maintenance Regulation) which is—

(i) registered in the sheriff court under the 2011 Regulations; or

(ii) otherwise enforceable in Scotland by virtue of the Maintenance Regulation and the 2011 Regulations; or

(e) a maintenance arrangement (within the meaning of Article 3(e) of the Hague Convention) which is registered in the sheriff court under the Hague Convention;”;

(c) after the definition of “electronic communications” insert—

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

“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 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;”.

The Civil Legal Aid (Scotland) Regulations 2002

4.—(1) The Civil Legal Aid (Scotland) Regulations 2002(4) are amended as follows.

(2) In regulation 46 (applications under the European Judgments Convention)(5)—

(a) after paragraph (1)(c) insert—

“(d) application for legal aid is made in relation to proceedings in respect of which the sheriff court has jurisdiction, or an appeal in respect of which the Inner House

(3) 2007 asp 3.

(4) S.S.I. 2002/494.

(5) Regulation 46 has been amended by S.I 2011/1484 and S.S.I. 2011/161.

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of the Court of Session has jurisdiction, by, or on behalf of, a person who has made an application to the Scottish Ministers under Chapter III of the Hague Convention and the person—

- (i) is entitled to free legal assistance by virtue of Article 15(1) of that Convention; or
- (ii) has, in a State bound by the Hague Convention other than an EU Member State, benefitted from free legal assistance and is entitled to free legal assistance by virtue of Article 17(b) of that Convention”;

(b) in paragraph (3) after “paragraph (1)(c)(i)” insert “or (d)(i)”; and

(c) after paragraph (4) insert—

“(5) In paragraph (1)(d), “the Hague Convention” means the Convention on the International Recovery of Child Support and other forms of Family Maintenance done at The Hague on 23rd November 2007.”.