

1980 No. 564

## NORTHERN IRELAND

## The Maintenance Orders (Northern Ireland Consequential Amendments) Order 1980

*Laid before Parliament in draft**Made - - - - - 21st April 1980**Coming into operation in accordance with Article 1*

At the Court at Windsor Castle, the 21st day of April 1980

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by section 38(2) of the Northern Ireland Constitution Act 1973(a) as extended by paragraph 1(7) of Schedule 1 to the Northern Ireland Act 1974(b), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

*Citation, commencement and extent*

1.—(1) This Order may be cited as the Maintenance Orders (Northern Ireland Consequential Amendments) Order 1980 and shall come into operation on the day appointed under paragraph (2) of Article 1 of the Domestic Proceedings (Northern Ireland) Order 1980(c) for the coming into operation of the provisions of that Order other than Articles 18, 19 and 21 thereof (provisions other than those relating to domestic violence).

(2) Articles 2, so far as it defines “the 1972 Act”, 3(1), so far as it refers to paragraph (2), and 3(2), 4 and 5 of and the Schedule to this Order extend only to Northern Ireland, and the remaining provisions of this Order extend to the whole of the United Kingdom.

*Interpretation*

## 2. In this Order—

“the 1950 Act” means the Maintenance Orders Act 1950(d);

“the 1972 Act” means the Maintenance Orders (Reciprocal Enforcement) Act 1972(e).

*Amendments of the 1950 Act*

3.—(1) The amendments set out in paragraphs (2), (3) and (4) shall be made in the 1950 Act.

(a) 1973 c. 36.  
(d) 1950 c. 37.

(b) 1974 c. 28.  
(e) 1972 c. 18.

(c) S.I. 1980/563 (N.I. 5).

(2) In section 10, in subsection (1) for "man" substitute "person", and in subsection (2)(a) for "woman" and "man" substitute, in each case, "person".

(3) In section 15(1)(a) after paragraph (a)(iv) insert—

"(v) Article 26(1) or 32(2) of the Domestic Proceedings (Northern Ireland) Order 1980; or".

(4) In section 16(2)(c) after sub-paragraph (vi)(b) insert—

"(vii) the Domestic Proceedings (Northern Ireland) Order 1980".

#### *Amendments of the 1972 Act*

4.—(1) The amendments set out in paragraphs (2) to (6) shall be made in the 1972 Act.

(2) In section 27(9)(c) after "1964" insert "and Article 36(1) of the Domestic Proceedings (Northern Ireland) Order 1980".

(3) For section 29 substitute—

"Complaint by spouse in convention country for recovery in Northern Ireland of maintenance from other spouse.

29. Where the complaint is a complaint made for an order under Article 4 of the Domestic Proceedings (Northern Ireland) Order 1980, the court hearing the complaint may make any order which it has power to make under Article 4 or 20(1)(i) of that Order; and that Order except Articles 8 to 19, 20(1)(ii), 21, 23, 25(1), 26 to 29, 36(1), 37 and 38 shall apply in relation to the complaint and to any order made on the complaint."

(4) For section 29A(d) substitute—

"Complaint by former spouse in convention country for recovery in Northern Ireland of maintenance from other spouse.

29A.—(1) Where on an application under section 27(1) of this Act for the recovery of maintenance from a person who is residing in Northern Ireland—

- (a) that person is a former spouse of the applicant in a convention country who is seeking to recover maintenance, and
- (b) the marriage between the applicant and the former spouse has been dissolved by a divorce granted in a convention country which is recognised as valid by the law of Northern Ireland, and
- (c) an order for the payment of maintenance for the benefit of the applicant or a child of the family has, by reason of the divorce proceedings in the convention country, been made by the court which granted the divorce or by any other court in that country,

the application shall, notwithstanding that the marriage has been dissolved, be treated as a complaint for an order under Article 4 of the Domestic Proceedings (Northern Ireland) Order 1980, and the provisions of this section shall have effect.

(2) On hearing a complaint by virtue of this section the magistrates' court may, if satisfied that the defendant has failed to comply with the provisions of any such order as is mentioned in

(a) Amended by 1977 c. 38 s. 3 Sch. 3 para. 11 and 1978 c. 22 s. 89(2)(a) Sch. 2 para. 12.

(b) Substituted by 1976 c. 71 s. 35(2) Sch. 7 para. 13(c) and further substituted by S.I. 1977/2158.

(c) Amended by 1978 c. 22 s. 89(2)(a) Sch. 2 para. 34(b).

(d) Inserted by 1978 c. 22 s. 59.

subsection (1)(c) above, make any order which it has power to make under Article 4 or 20(1)(i) of the Domestic Proceedings (Northern Ireland) Order 1980, except that—

- (a) an order for the making of periodical payments for the benefit of the applicant or any child of the family shall not be made unless the order made in the convention country provides for the making of periodical payments for the benefit of the applicant or, as the case may be, that child, and
- (b) an order for the payment of a lump sum for the benefit of the applicant or any child of the family shall not be made unless the order made in the convention country provides for the payment of a lump sum to the applicant or, as the case may be, to that child.

(3) The Domestic Proceedings (Northern Ireland) Order 1980 shall apply in relation to any application which is treated by virtue of this section as a complaint for an order under Article 4 of that Order, and in relation to any order made on the complaint, subject to the following modifications, that is to say—

- (a) Article 3 shall be omitted;
- (b) for the reference in Article 4(1) to any ground mentioned in Article 3 of that Order there shall be substituted a reference to non-compliance with any such order as is mentioned in subsection (1)(c) of this section;
- (c) in Article 5(1)(c) for the reference to the occurrence of the conduct which is alleged as the ground of the application there shall be substituted a reference to the breakdown of the marriage;
- (d) in Article 6(2) the reference to the subsequent dissolution or annulment of the marriage of the parties affected by the order shall be omitted;
- (e) Articles 8 to 19, 20(1)(ii), 21, 23, 25(1), 26 to 30, 36(1), 37 and 38 shall be omitted.

(4) A divorce obtained in a convention country shall be presumed for the purposes of this section to be one the validity of which is recognised by the law of Northern Ireland, unless the contrary is proved by the defendant.

(5) The reference in subsection (1)(b) above to the dissolution of a marriage by divorce shall be construed as including a reference to the annulment of the marriage and any reference in this section to a divorce or to divorce proceedings shall be construed accordingly.

(6) In this section the expression “child of the family” has the same meaning as in the Domestic Proceedings (Northern Ireland) Order 1980.”.

(5) In section 35(5) at the end insert “and with the substitution in subsection (1) for the references to sections 28 and 28A(3)(e)(a) of references to sections 29 and 29A(3)(e)”.

(6) In section 42(1)(b) after the words in brackets insert “or Article 4(1)(a) of the Domestic Proceedings (Northern Ireland) Order 1980”.

(a) References to ss. 28 and 28A(3)(e) were substituted in s. 35(1) by 1978 c. 22 s. 89(2)(a) Sch. 2 para. 35.

(b) Amended by *ibid.* para. 37.

*Repeals*

5. The enactments specified in columns 1 and 2 of the Schedule to this Order shall be repealed to the extent specified in column 3.

*N. E. Leigh,*  
Clerk of the Privy Council.

SCHEDULE  
REPEALS

Chapter	Short Title	Extent of Repeal
1950 c. 37.	Maintenance Orders Act 1950.	Section 10(4).
1972 c. 18.	Maintenance Orders (Reciprocal Enforcement) Act 1972.	In section 27(9) the word "and" in the third place where it occurs.

EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order makes amendments and repeals affecting the Maintenance Orders Act 1950 and the Maintenance Orders (Reciprocal Enforcement) Act 1972 which are consequential on the Domestic Proceedings (Northern Ireland) Order 1980.