

SCHEDULE 2

MODIFICATIONS TO PART I OF THE ACT

21.—(1) Section 21(1) shall be amended as follows.

(2) In subsection (1)–

- (a) after the word “Act” where it first occurs there shall be inserted the words “unless the context otherwise requires”;
- (b) in the definition of “the appropriate court” the words “or having assets”, in both places where they occur, and the words “or has assets” shall be omitted and for the words “a sheriff court” there shall be substituted the words “the sheriff court”;
- (c) in the definition of “certificate of arrears” for the words “or, as the case may be” to the end there shall be substituted the words “except any arrears that accrued before the date of the entry into force of the Hague Convention between the United Kingdom and the Hague Convention country in which the payer is residing or, as the case may be, that to the best of his information or belief there are no arrears due thereunder at the date of the certificate,”;
- (d) in the definition of “court” at the end there shall be inserted the words “and ‘competent court in a Hague Convention country’ means a court having jurisdiction on one of the grounds specified in section 6(5)(a) above,”;
- (e) for the definition of “maintenance order” there shall be substituted the following definition–

“‘maintenance order’ means an order (however described), including any settlement made by or before a competent court in a Hague Convention country, of any of the following descriptions, and, in the case of an order which is not limited to the following descriptions, the part of the order which is so limited, that is to say–

- (a) an order (including an affiliation order or order consequent upon an affiliation order) which provides for the periodical payment of sums of money towards the maintenance of any person, being a person whom the person liable to make payments under the order is, according to the law applied in the place where the order was made, liable to maintain;
- (aa) an order which has been made in Scotland, on or after the granting of a decree of divorce, for the payment of a periodical allowance by one party to the marriage to the other party;
- (b) an affiliation order or order consequent upon an affiliation order, being an order which provides for the payment by a person adjudged, found or declared to be a child’s father of expenses incidental to the child’s birth or, where the child has died, of his funeral expenses; and
- (d) an order within the foregoing provisions of this definition made against a payer on the application of a public body which claims reimbursement of sums of money payable under the order with respect to the payee if the reimbursement can be obtained by the public body under the law to which it is subject,

and in the case of a maintenance order which has been varied (including a maintenance order which has been varied either by a court in the United Kingdom or by a competent court in a Hague Convention country whether or not the original order was made by such a court), means that order as varied:

Provided that the expression “maintenance order” shall not include an order made in a Hague Convention country of a description which that country or

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the United Kingdom has reserved the right under Article 26 of the Hague Convention not to recognise or enforce;”;

- (f) in the definition of “order” before the words “as respects Scotland” there shall be inserted the words “means an order however described giving effect to a decision rendered by a court and”;
 - (g) in the definition of “payee” at the end there shall be inserted the words “and includes a public body which has provided benefits for the payee and which is entitled ipso jure under the law to which it is subject to claim enforcement of the said order to the extent of the benefits so provided in place of the said person;”;
 - (h) the definitions of “provisional order” and “reciprocating country” shall be omitted;
 - (i) in the definition of “registered order” there shall be inserted at the end the words “and 'registered' and 'registration' shall be construed accordingly;”;
 - (j) the definition of “the responsible authority” shall be omitted.
- (3) Subsection (2) shall be omitted.