

## SCHEDULE 2

### PART I OF THE ACT AS MODIFIED BY SCHEDULE 1

#### *Supplemental*

#### **Payments of sums under orders made in the Republic of Ireland.**

16. Payment of sums due under a registered order shall, while the order is registered in a court in England, Wales or Northern Ireland, be made in such manner and to such person as may be prescribed.

#### **Proceedings in magistrates' courts.**

17.—(4) Anything authorised or required by this Part of this Act to be done by, to or before the magistrates' court by, to or before which any other thing was done may be done by, to or before any magistrates' court acting for the same petty sessions area (or, in Northern Ireland, petty sessions district) as that court.

(5) Any application which by virtue of a provision of this Part of this Act is made to a magistrates' court in Northern Ireland shall be made by complaint.

(5A) Where the respondent to an application for the variation or revocation of—

- (a) a maintenance order made by a magistrates' court in England and Wales, being an order to which section 5 of this Act applies; or
- (b) a registered order which is registered in such a court,

is residing in the Republic of Ireland, a magistrates' court in England and Wales shall have jurisdiction to hear the application (where it would not have such jurisdiction apart from this subsection) if it would have had jurisdiction to hear it had the respondent been residing in England and Wales.

(6) A magistrates' court in Northern Ireland shall have jurisdiction to hear a complaint for the variation or revocation of a maintenance order made by such a court, being an order to which section 5 of this Act applies, if the defendant to the complaint is residing in the Republic of Ireland and the court would have jurisdiction to hear the complaint had the defendant been residing in Northern Ireland.

(7) Where the respondent to an application for the variation or revocation of a maintenance order made by a magistrates' court, being an order to which section 5 of this Act applies, does not appear at the time and place appointed for the hearing of the application, but the court is satisfied that the respondent is residing in the Republic of Ireland, the court may proceed to hear and determine the application at the time and place appointed for the hearing or for any adjourned hearing in like manner as if the respondent had appeared at that time and place.

(7A) In the application of this section to Northern Ireland, in subsection (7)—

- (a) for the word “respondent”, in each place where it occurs, there shall be substituted “defendant”; and
- (b) for the words “an application” and “the application”, in each place where they occur, there shall be substituted “a complaint” and “the complaint” respectively.

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### **Magistrates' courts rules.**

**18.**—(1) Without prejudice to the generality of the power to make rules under section 144 of the Magistrates' Courts Act 1980(1) (magistrates' courts rules), provision may be made by such rules with respect to any of the following matters, namely—

- (a) the circumstances in which anything authorised or required by this Part of this Act to be done by, to or before a magistrates' court acting for a particular petty sessions area or by, to or before an officer of that court may be done by, to or before a magistrates' court acting for such other petty sessions area as the rules may provide or by, to or before an officer of that court;
- (b) the orders made, or other things done, by a magistrates' court, or an officer of such a court, under this Part of this Act, or by a court in the Republic of Ireland, notice of which is to be given to such persons as the rules may provide and the manner in which such notice shall be given;
- (c) the cases and manner in which courts in the Republic of Ireland are to be informed of orders made, or other things done, by a magistrates' court under this Part of this Act;
- (d) the cases and manner in which a justices' clerk may take evidence needed for the purpose of proceedings in a court in the Republic of Ireland relating to a maintenance order to which this Part of this Act applies;
- (e) the circumstances and manner in which cases may be remitted by magistrates' courts to courts in the Republic of Ireland;
- (f) the circumstances and manner in which magistrates' courts may for the purposes of this Part of this Act communicate with courts in the Republic of Ireland.

(1A) For the purpose of giving effect to this Part of this Act, rules made under section 144 of the Magistrates' Courts Act 1980 may make, in relation to any proceedings brought under or by virtue of this Part of this Act, any provision not covered by subsection (1) above which—

- (a) falls within subsection (2) of section 93 of the Children Act 1989(2), and
- (b) may be made in relation to relevant proceedings under that section.

(2) Rules with respect to the matters mentioned in subsection (1) above may be made in accordance with Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(3) in relation to proceedings or matters in magistrates' courts in Northern Ireland under this Part of this Act.

### **Rules for sheriff court.**

**19.** Without prejudice to the generality of the powers conferred on the Court of Session by section 32 of the Sheriff Courts (Scotland) Act 1971(4) to regulate by act of sederunt the procedure of the sheriff court, the said powers shall include power—

- (a) to prescribe the decrees granted, or other things done, by the sheriff, or an officer of the sheriff court, under this Part of this Act, or by a court in the Republic of Ireland, notice of which is to be given to such persons as the act of sederunt may provide and the manner in which such notice shall be given;
- (b) to provide that evidence needed for the purpose of proceedings in a court in the Republic of Ireland relating to a maintenance order to which this Part of this Act applies may, in such cases and manner as the act of sederunt may provide, be taken by a sheriff clerk or sheriff clerk depute;

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(1) 1980 c. 43. There are no relevant amendments.

(2) 1989 c. 41.

(3) S.I.1981/1685 (N.I.26).

(4) 1971 c. 58.

- (c) to prescribe the cases and manner in which courts in the Republic of Ireland are to be informed of decrees granted, or other things done, by the sheriff under this Part of this Act;
- (d) to prescribe the circumstances and manner in which cases may be remitted by the sheriff to courts in the Republic of Ireland;
- (e) to prescribe the circumstances and manner in which the sheriff may for the purposes of this Part of this Act communicate with courts in the Republic of Ireland.

## **Interpretation of Part 1.**

### **21.—(1) In this Part of this Act—**

“affiliation order” means an order (however described) adjudging, finding or declaring a person to be the father of a child, whether or not it also provides for the maintenance of the child;

“the appropriate court”, in relation to a person residing in England and Wales or in Northern Ireland means a magistrates' court, and in relation to a person residing in Scotland means the sheriff court, within the jurisdiction of which that person is residing;

“certificate of arrears”, in relation to a maintenance order, means a certificate certifying that the sum specified in the certificate is to the best of the information or belief of the officer giving the certificate the amount of the arrears due under the order at the date of the certificate except any arrears due under the order in respect of a period ending before 1st April 1975 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;

“certified copy”, in relation to an order of a court, means a copy of the order certified by the proper officer of the court to be a true copy;

“court” includes any tribunal or person having power to make, confirm, enforce, vary or revoke a maintenance order;

“maintenance order” means an order (however described) of any of the following descriptions, 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; and
- (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, in the case of a maintenance order which has been varied, means that order as varied;

“order”, as respects Scotland, includes any interlocutor, and any decree or provision contained in an interlocutor;

“payee”, in relation to a maintenance order, means the person entitled to the payments for which the order provides;

“payer”, in relation to a maintenance order, means the person liable to make payments under the order;

“prescribed”, in relation to a magistrates' court in England and Wales or in Northern Ireland, means prescribed by rules made under section 144 of the Magistrates' Courts Act 1980 or by

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rules made in accordance with Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981, as the case may be, and in relation to any other court means prescribed by rules of court;

“provisional order” means an order made by a court in England and Wales or Northern Ireland which is provisional only and has no effect unless and until confirmed, with or without alteration, by that court;

“registered order” means a maintenance order which is for the time being registered in a court in the United Kingdom under this Part of this Act;

“registering court”, in relation to a registered order, means the court in which that order is for the time being registered under this Part of this Act;

“the responsible authority”, in relation to the Republic of Ireland, means any person who in that country has functions similar to those of the Lord Chancellor or the Secretary of State under this Part of this Act; and

“revoke” and “revocation” include discharge.

(2) For the purposes of this Part of this Act an order shall be taken to be a maintenance order so far (but only so far) as it relates to the periodical payment of sums of money as mentioned in paragraph (a) of the definition of “maintenance order” in subsection (1) above, to the payment of a periodical allowance as mentioned in paragraph (aa) of that definition, or to the payment by a person adjudged, found or declared to be a child’s father of any such expenses as are mentioned in paragraph (b) of that definition.

(3) Any reference in this Part of this Act to the payment of money for the maintenance of a child shall be construed as including a reference to the payment of money for the child’s education.