

SCHEDULE 2

Article 3(1)

MODIFICATIONS TO PART I OF THE ACT

1. Section 1 shall not apply.
- 2.—(1) Section 2 shall be amended as follows.
 - (2) In subsection (1)—
 - (a) for the words “before or after the commencement of this Part of this Act” there shall be substituted the words “before, on or after 5th April 1993”;
 - (b) the words “or has assets” shall be omitted;
 - (c) for the word “reciprocating” there shall be substituted the words “Hague Convention”; and
 - (d) before the word “enforcement” there shall be inserted the words “recognition and”.
 - (3) In subsection (2), for the words “provisional order” there shall be substituted the words “maintenance order made under section 3 of this Act”.
 - (4) In subsection (4)—
 - (a) the words “or has assets” shall be omitted;
 - (b) for the word “reciprocating” where it first occurs there shall be substituted the words “Hague Convention”;
 - (c) for paragraph (b), there shall be substituted—
 - “(b) a certificate signed by that officer certifying that the order is enforceable and that it is no longer subject to the ordinary forms of review;”;
 - (d) the words “and the nature and location of his assets in that country”, in both places where they occur, shall be omitted;
 - (e) in paragraph (e), the word “and” shall be omitted;
 - (f) after paragraph (f), there shall be inserted:
 - “(g) a written statement signed by that officer as to whether or not the payer appeared in the proceedings in which the maintenance order was made and, if he did not appear, the original or a certified copy of a document which establishes that notice of the institution of the proceedings, including notice of the substance of the claim, was served on the payer;
 - (h) a document which establishes that notice of the order was sent to the payer; and
 - (i) a written statement signed by that officer as to whether or not the payee received legal aid either in the said proceedings or in connection with the said application;”;
 - (g) after the words “that officer” where they last occur there shall be inserted the words “, in the case of a court in England and Wales or Northern Ireland, to the Lord Chancellor, or in the case of a court in Scotland,”;
 - (h) after the words “transmitted by” there shall be inserted the words “the Lord Chancellor, or, as the case may be,”; and
 - (i) for the words “responsible authority in the reciprocating country” there shall be substituted the words “appropriate authority in the Hague Convention country”.
 - (5) In subsection (5), after the words “applies, and” there shall be inserted the words “subject to section 5”.
- 3.—(1) Section 3 shall be amended as follows.
 - (2) For subsection (1) there shall be substituted—

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“(1) Where an application is made to a magistrates' court for a maintenance order by a person who is habitually resident in England and Wales against a person residing in a Hague Convention country and the court would have jurisdiction to determine the application under the Domestic Proceedings and Magistrates' Courts Act 1978⁽¹⁾ or the Children Act 1989⁽²⁾ if at any time when the proceedings were instituted that person—

- (a) were residing in England and Wales, and
- (b) received reasonable notice of the date of the hearing of the application,

the court shall subject to the following provisions of this subsection have jurisdiction to determine the application.”.

(3) Subsection (2) shall be omitted.

(4) For subsection (5) there shall be substituted—

“(5) On the making of an application to which subsection (1) above applies, the following documents, that is to say—

- (a) notice of the institution of the proceedings, including notice of the substance of the application;
- (b) a statement signed by the prescribed officer of the court giving such information as he possesses as to the whereabouts of the respondent;
- (c) a statement giving such information as the officer possesses for facilitating the identification of the respondent; and
- (d) where available, a photograph of the respondent,

shall be sent by that officer to the Lord Chancellor with a view to their being transmitted by the Lord Chancellor to the appropriate authority in the Hague Convention country in which the respondent is residing for service on him of the document mentioned in paragraph (a) above if the Lord Chancellor is satisfied that the statement relating to the whereabouts of the respondent gives sufficient information to justify that being done.”.

(5) For subsection (6) there shall be substituted—

“(6) In considering whether or not to make a maintenance order pursuant to an application to which subsection (1) above applies the court shall take into account any representations made and any evidence adduced by or on behalf of the respondent.

(6A) Where the respondent makes any representations or adduces any evidence, a copy of the representations or evidence shall be served on the applicant by the prescribed officer of the court before the hearing.

(6B) The prescribed officer of the court shall give the respondent notice in writing of the date fixed for the hearing by sending the notice by post addressed to his last known or usual place of abode.

(6C) A maintenance order pursuant to an application to which subsection (1) above applies shall not be made unless the document mentioned in paragraph (a) of subsection (5) above has been served on the respondent in accordance with the law for the service of such documents in the Hague Convention country in which he is residing or in such other manner as may be authorised by the Lord Chancellor not less than six weeks previously.

(6D) Where a maintenance order has been made under this section, the prescribed officer of the court shall send the following documents, that is to say—

- (a) a certified copy of the order;

(1) 1978 c. 22.
(2) 1989 c. 41.

- (b) a certificate signed by that officer certifying that the order is enforceable and that it is no longer subject to the ordinary forms of review;
- (c) a written statement, signed by that officer as to whether or not the respondent appeared in the proceedings in which the order was made, and, if he did not appear, the original or a certified copy of a document which establishes that the document mentioned in paragraph (a) of subsection (5) above has been served on the payer in accordance with subsection (6C) above;
- (d) a document which establishes that notice of the order was sent to the respondent; and
- (e) a written statement signed by that officer as to whether or not the applicant received legal aid in the proceedings,

to the Lord Chancellor with a view to their being transmitted by him to the appropriate authority in the Hague Convention country in which the respondent resides for recognition and enforcement of the order.

(6E) A maintenance order made under this section may, subject to section 5 of this Act, be enforced, varied or revoked in like manner as any other maintenance order made by a magistrates' court.”.

- (6) In subsection (7)–
 - (a) after the words “a magistrates' court” there shall be inserted the words “by a person who is habitually resident in Northern Ireland”; and
 - (b) for the word “reciprocating” there shall be substituted the words “Hague Convention”.

4.—(1) Section 4 shall be amended as follows.

(2) For subsection (1) there shall be substituted the following subsections–

“(1) The sheriff shall have jurisdiction in any action to which this section applies if at the time when the proceedings were instituted–

- (a) the pursuer is habitually resident in Scotland and resides within the jurisdiction of the sheriff; and
- (b) the sheriff is satisfied that, to the best of the information or belief of the pursuer, the defender is residing in a Hague Convention country; and
- (c) the sheriff would not, apart from this subsection, have jurisdiction in that action.

(2) This section applies to any action for the payment, variation or revocation of aliment which is competent in the sheriff court, and includes an action of affiliation and aliment, but does not include an action of separation and aliment or adherence and aliment, or any action containing a crave for the custody of a child.”.

(3) In subsection (3), for the words “referred to in” there shall be substituted “in which the sheriff has jurisdiction by virtue of”.

(4) For subsection (4) there shall be substituted–

“(4) In any action in which the sheriff has jurisdiction by virtue of subsection (1) above, no decree shall be granted in favour of the pursuer unless a copy of the initial writ or summons has been served on the defender in the prescribed manner and in sufficient time to enable him to arrange for his defence.”.

(5) Subsections (5) and (6) shall be omitted.

5. For section 5 there shall be substituted–

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(1) This section applies to a maintenance order a certified copy of which has been sent to a Hague Convention country for recognition and enforcement of the order.

(2) The jurisdiction of a magistrates' court to revoke or vary a maintenance order shall be exercisable notwithstanding that the proceedings for the revocation or variation, as the case may be, of the order are brought by or against a person residing in a Hague Convention country.

(3) Where subsection (1) of section 60 of the Magistrates' Courts Act 1980(3)(revocation, variation etc. of orders for periodical payment) applies in relation to a maintenance order to which this section applies, that subsection shall have effect as if for the words "by order on complaint," there were substituted "on an application being made, by order".

(4) Where an application is made by the payee to a court in England and Wales or Northern Ireland for the variation or revocation of an order to which this section applies, and the payer is residing in a Hague Convention country, the prescribed officer of the court shall send to the Lord Chancellor notice of the institution of the proceedings, including notice of the substance of the application, with a view to its being transmitted by him to the appropriate authority in the Hague Convention country for service on the payer.

(5) Where an application is made by the payee to a court in England and Wales or Northern Ireland for the variation or revocation of an order to which this section applies, and the payer is residing in a Hague Convention country—

- (a) the court, in considering whether or not to vary or revoke the order, shall take into account any representations made and any evidence adduced by or on behalf of the payer;
- (b) a copy of any such representations or evidence shall be served on the payee in the prescribed manner before the hearing;
- (c) the prescribed officer of the court shall give the payer notice in writing of the date fixed for the hearing by sending the notice by post addressed to his last known or usual place of abode.

(6) Where an application is made by the payee to a court in England and Wales or Northern Ireland for the variation or revocation of an order to which this section applies, and the payer is residing in a Hague Convention country, the order shall not be varied or revoked unless the document mentioned in subsection (4) above has been served on the payer in accordance with the law for the service of such a document in the Hague Convention country not less than six weeks previously.

(7) Where an application is made by the payer to a court in England and Wales or Northern Ireland for the variation or revocation of an order to which this section applies, the prescribed officer of the court shall arrange for the service of the document mentioned in subsection (4) above on the payee.

(8) Where an order to which this section applies has been varied or revoked by a court in the United Kingdom the prescribed officer of the court shall send the following documents, that is to say—

- (a) a certified copy of the order of variation or revocation;
- (b) a certificate signed by that officer certifying that the order of variation or revocation is enforceable and that it is no longer subject to the ordinary forms of review;
- (c) a written statement, signed by that officer as to whether or not the respondent or, in Scotland the defender, appeared in the proceedings for the variation or revocation

(3) 1980 c. 43; section 60(1) was substituted by section 4 of the Maintenance Enforcement Act 1991 (c. 17).

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of the order, and, if he did not appear, the original or a certified copy of a document which establishes that notice of the institution of the proceedings has been served on the respondent, or, as the case may be, the defender; and

- (d) a document which establishes that notice of the order of variation or revocation was sent to the respondent; and
- (e) a written statement signed by that officer as to whether or not the payer or the payee received legal aid in the proceedings,

in the case of a court in England and Wales or Northern Ireland, to the Lord Chancellor, or, in the case of a court in Scotland, to the Secretary of State, with a view to their being transmitted by him to the appropriate authority in the Hague Convention country for recognition and enforcement of the order of variation or revocation.

(9) Where a maintenance order to which this section applies has been varied by an order made by a court in the United Kingdom or by a competent court in a Hague Convention country the maintenance order shall, as from the date on which the order of variation took effect, have effect as varied by that order.

(10) Where a maintenance order to which this section applies has been revoked by an order made by a court in the United Kingdom or by a competent court in a Hague Convention country the maintenance order shall, as from the date on which the order of revocation took effect, be deemed to have ceased to have effect except as respects any arrears due under the maintenance order at that date.

(11) Where a maintenance order to which this section applies has been varied or revoked by an order made by a competent court in a Hague Convention country, the prescribed officer of the court shall register the order of variation or revocation in the prescribed manner.

(12) In the application of this section to Northern Ireland, in subsection (8), for the word “respondent”, in each place where it occurs, there shall be substituted “defendant”.

6. For section 6 there shall be substituted—

(1) This section applies to a maintenance order made whether before, on or after 5th April 1993 by a competent court in a Hague Convention country.

(2) Where a certified copy of an order to which this section applies is received by the Lord Chancellor or the Secretary of State from a Hague Convention country, and it appears to him that the payer under the order is residing in the United Kingdom, he shall send the copy of the order and the accompanying documents to the prescribed officer of the appropriate court.

(3) Where the prescribed officer of the appropriate court receives from the Lord Chancellor or the Secretary of State a certified copy of an order to which this section applies, he shall, subject to the following subsections, register the order in the prescribed manner in that court.

(4) Before registering an order under this section an officer of a court shall take such steps as he thinks fit for the purpose of ascertaining whether the payer under the order is residing within the jurisdiction of the court, and if after taking those steps he is satisfied that the payer is not so residing he shall return the certified copy of the order and the accompanying documents to the Lord Chancellor or the Secretary of State, as the case may be, with a statement giving such information as he possesses as to the whereabouts of the payer.

- (a) (5) The prescribed officer of the appropriate court may refuse to authorise the registration of the order if the court in the Hague Convention country by or before which the order was made did not have jurisdiction to make the order; and

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for these purposes a court in a Hague Convention country shall be considered to have jurisdiction if–

- (i) either the payer or the payee had his habitual residence in the Hague Convention country at the time when the proceedings were instituted; or
- (ii) the payer and the payee were nationals of that country at that time; or
- (iii) the respondent in those proceedings had submitted to the jurisdiction of the court, either expressly or by defending on the merits of the case without objecting to the jurisdiction; or
- (iv) in the case of an order made by reason of a divorce or a legal separation or a declaration that a marriage is void or annulled, the court is recognised by the law of the part of the United Kingdom in which enforcement is sought as having jurisdiction to make the order.

(b) In deciding whether a court in a Hague Convention country had jurisdiction to make an order the prescribed officer shall be bound by any finding of fact on which the court based its jurisdiction.

(6) The prescribed officer of the appropriate court may refuse to authorise the registration of the order–

- (a) if such registration is manifestly contrary to public policy;
- (b) if the order was obtained by fraud in connection with a matter of procedure;
- (c) if proceedings between the same parties and having the same purpose are pending before a court in the same part of the United Kingdom and those proceedings were the first to be instituted; or
- (d) if the order is incompatible with an order made in proceedings between the same parties and having the same purpose, either in the United Kingdom or in another country, provided that the latter order itself fulfils the conditions necessary for its registration and enforcement under this Part of this Act.

(7) Without prejudice to subsection (6) above, if the payer did not appear in the proceedings in the Hague Convention country in which the order was made, the prescribed officer of the appropriate court shall refuse to authorise the registration of the order unless notice of the institution of the proceedings, including notice of the substance of the claim, was served on the payer in accordance with the law of that Hague Convention country and if, having regard to the circumstances, the payer had sufficient time to enable him to defend the proceedings.

(8) If the order is registered under subsection (3) above, the prescribed officer of the appropriate court shall serve notice in a prescribed form on the payer and give notice to the payee that the order has been registered.

(9) The payer may, before the end of the period of one calendar month beginning with the date of service of the said notice, appeal to the court in which the order is registered to set aside the registration of the order on one of the grounds set out in paragraphs (5), (6) and (7) above.

(10) If the payer appeals to the court in which the order is registered to set aside the registration of the order, the prescribed officer of the court shall give notice to the payee of the appeal and of the date of the hearing of the appeal.

(11) If the prescribed officer refuses to register the order, he shall give notice to the payee in a prescribed form that registration has been refused.

(12) A payee to whom notice has been given by the prescribed officer of any court under subsection (11) above may, before the end of the period of one calendar month beginning

with the date when notice was given, appeal to that court against the refusal to register the order.

(13) If the payee appeals to the court against the refusal to register the order, the prescribed officer of the court shall give notice to the payer of the appeal and of the date of the hearing of the appeal.

(14) In the application of this section to Scotland—

- (a) in subsection (8), for the words “serve notice in a prescribed form on” there shall be substituted the words “intimate to in the prescribed manner”;
- (b) in subsection (9), for the words “service of the said notice” there shall be substituted the words “the said intimation”;
- (c) in subsections (9), (10), (12) and (13), for any reference to an appeal there shall be substituted a reference to an application and cognate expressions shall be construed accordingly; and
- (d) in subsection (11), for the words “in a prescribed form” there shall be substituted the words “in the prescribed manner”.

(15) In the application of this section to Northern Ireland, in subsection (5), for the word “respondent” there shall be substituted “defendant”.

7. Section 7 shall not apply.

8.—(1) Section 8 shall be amended as follows.

(2) In subsection (1), for the words “subsection (2)” there shall be substituted the words “subsections (2), (2A) and (2B)”.

(3) After subsection (2), there shall be inserted—

“(2A) Where in a maintenance order made in a Hague Convention country there are provisions which are not enforceable under this Part of this Act, this section shall apply only to the remaining provisions of the order.

(2B) The payee under a registered order may request the partial enforcement of that order.”.

(4) In subsection (4), after the words “magistrates' court” where they first occur, there shall be inserted the words “in England and Wales”.

(5) In subsection (5), the words “or facilitating the enforcement of” shall be omitted.

(6) For subsections (7), (8) and (9) there shall be substituted—

“(7) Subject to subsection (8) below, a sum of money payable under a registered order shall be payable in accordance with the order, or such part thereof as the payee may have requested should be enforced, as from the date on which the order took effect.

(8) Where a registered order was made by a court in a Hague Convention country before the date of the entry into force of the Hague Convention between the United Kingdom and that country, no sum of money falling due before that date shall be payable in accordance with the order.

(9) In the application of this section to Scotland—

- (a) subsections (2) to (5) shall be omitted; and
- (b) in subsection (6), for the word “evidence” there shall be substituted the words “sufficient evidence”.

9.—(1) Section 9 shall be amended as follows.

(2) For subsection (1) there shall be substituted—

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“(1) Subject to the provisions of this section–

- (a) the registering court shall have the like power, on an application made by the payer or payee under a registered order, to vary the order as if it had been made by the registering court and as if that court had had jurisdiction to make it;
- (b) the jurisdiction of a magistrates' court to vary a registered order shall be exercisable notwithstanding that the proceedings for the variation of the order are brought by or against a person residing in a Hague Convention country.”.

(3) Subsections (1A) and (1B) shall be omitted.

(4) For subsections (2) to (11) there shall be substituted–

“(2) The registering court shall not vary a registered order unless–

- (a) the payer under the order had his habitual residence in the United Kingdom at the time when the proceedings to vary the order were instituted; or
- (b) the respondent in those proceedings had submitted to the jurisdiction of the registering court, either expressly or by defending on the merits of the case without objecting to the jurisdiction.

(3) Where an application is made to a registering court in England and Wales or Northern Ireland by the payer for the variation of a registered order, and the payee is residing in a Hague Convention country, the prescribed officer of the court shall send to the Lord Chancellor notice of the institution of the proceedings, including notice of the substance of the application, with a view to its being transmitted by him to the appropriate authority in the Hague Convention country for service on the payee.

(4) Where an application is made by the payer to a registering court in England and Wales or Northern Ireland for the variation of a registered order–

- (a) the court, in considering whether or not to vary the order, shall take into account any representations made and any evidence adduced by or on behalf of the payee;
- (b) a copy of any such representations and evidence shall be served on the payer by the prescribed officer of the court before the hearing;
- (c) the prescribed officer of the court shall give the payee notice in writing of the date fixed for the hearing by sending the notice by post addressed to his last known or usual place of abode.

(5) Where an application is made by the payer to a registering court in England and Wales or Northern Ireland for the variation of a registered order and the payee is residing in a Hague Convention country, the order shall not be varied unless the document mentioned in subsection (3) above has been served on the payee in accordance with the law for the service of such a document in the Hague Convention country not less than six weeks previously.

(6) Where an application is made by the payee to a registering court in England and Wales or Northern Ireland for the variation of a registered order, the prescribed officer of the court shall serve the document mentioned in subsection (3) above on the payer.

(7) Where a registered order is varied by a registering court in the United Kingdom the prescribed officer of the court shall send the following documents, that is to say–

- (a) a certified copy of the order of variation;
- (b) a certificate signed by that officer certifying that the order of variation is enforceable and that it is no longer subject to the ordinary forms of review;
- (c) a written statement signed by that officer as to whether or not the respondent or, in Scotland, the defender appeared in the proceedings for the variation of the order, and, if he did not appear, the original or a certified copy of a document which

establishes that notice of the institution of the proceedings has been served on the respondent or, as the case may be, the defender; and

- (d) a written statement signed by that officer as to whether or not the payer or the payee received legal aid in the proceedings,

in the case of a court in England and Wales or Northern Ireland, to the Lord Chancellor, or, in the case of a court in Scotland, to the Secretary of State, with a view to their being transmitted by the Lord Chancellor, or, as the case may be, the Secretary of State, to the appropriate authority in the Hague Convention country for recognition and enforcement of the order of variation.

(8) Where a registered order has been varied by the registering court or by a court in a Hague Convention country, the prescribed officer of the registering court shall register the variation order in the prescribed manner.

(9) Where a registered order has been varied by the registering court or by a court in a Hague Convention country, the registered order shall, as from the date on which the variation order took effect, have effect as so varied.

(10) In the application of this section to Northern Ireland, in subsections (2) and (7), for the word “respondent” in each place where it occurs, there shall be substituted “defendant”.

10.—(1) Section 10 shall be amended as follows.

(2) For subsection (1) there shall be substituted—

“(1) Where a registered order is revoked by an order made by a court in a Hague Convention country and notice of the revocation is received by the registering court, the prescribed officer of the registering court shall cancel the registration; but any arrears due under the registered order at the date on which the order of revocation took effect, other than, in the case of a registered order made by a court in a Hague Convention country before the date of the entry into force of the Hague Convention between the United Kingdom and that country, arrears due before that date, shall continue to be recoverable as if the registration had not been cancelled.”

(3) In subsection (2)—

- (a) in relation to England and Wales and Northern Ireland, for the words “is not residing within the jurisdiction of that court and has no assets within that jurisdiction against which the order can be effectively enforced” there shall be substituted the words “has ceased to reside within the jurisdiction of that court”; and
- (b) in relation to Scotland, for those words there shall be substituted the words “is not residing in Scotland”.

(4) In subsection (3), the words “or has assets” shall be omitted.

(5) In subsection (5)—

- (a) for the words “Secretary of State” there shall be substituted the words “Lord Chancellor”; and
- (b) for the words “residing or has assets” there shall be substituted the words “still residing”.

(6) In subsection (6)—

- (a) the words “or has assets” shall be omitted;
- (b) for the words “residing and has no assets within the jurisdiction of the court” there shall be substituted the words “so residing”; and
- (c) for the words “Secretary of State” there shall be substituted the words “Lord Chancellor”.

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- (7) In subsection (7)–
 - (a) for the words “Secretary of State” there shall be substituted the words “Lord Chancellor”; and
 - (b) the words “and the nature and location of his assets” shall be omitted.
- (8) In subsection (8), in paragraph (a), the word “and” shall be omitted and after paragraph (b) there shall be inserted–
“; and
 - (c) for the words “Lord Chancellor”, in each place where they occur, there shall be substituted the words “Secretary of State”.”

11.—(1) Section 11 shall be amended as follows.

- (2) In subsection (1)–
 - (a) the words “at any time” shall be omitted;
 - (b) after the words “appears to” there shall be inserted the words “the Lord Chancellor or”;
 - (c) the words “and has no assets” shall be omitted;
 - (d) for the word “responsible” where it first occurs there shall be substituted the word “appropriate”;
 - (e) the words “or, if having regard to all the circumstances he thinks it proper to do so, to the responsible authority in another reciprocating country” and the words “and a certified copy of any order varying that order” shall be omitted;
 - (f) after the words “information as” there shall be inserted the words “the Lord Chancellor or”;
 - (g) the words “and the nature and location of his assets” shall be omitted.
- (3) Subsection (2) shall be omitted.

12. For section 12 there shall be substituted–

“**12.** Where in pursuance of section 9 above a registering court makes or refuses to make an order varying a registered order, the payer or the payee under the registered order shall have the like right of appeal (if any) from the order of variation or from the refusal to make it as he would have if the registered order had been made by the registering court.”

13.—(1) Section 13 shall be amended as follows.

- (2) In subsection (1)–
 - (a) in paragraph (a), for the word “reciprocating” there shall be substituted the words “Hague Convention”;
 - (b) after paragraph (c) there shall be added–
“or
 - (d) a document purporting to be signed by a judicial officer, official or other competent person in a Hague Convention country which establishes that certain documents were served on a person,”.
- (3) In subsection (2), for the words “judge, magistrate” there shall be substituted the words “judicial officer”.
- (4) In subsection (3), the word “magistrate” shall be omitted.

14.—(1) Section 14 shall be amended as follows.

(2) In subsection (1)–

- (a) for the word “reciprocating” there shall be substituted the words “Hague Convention”;
- (b) for the words from “in the prescribed manner” to the end there shall be substituted the following words– “by the prescribed officer of the court–
 - (a) in England and Wales or Northern Ireland, to the Lord Chancellor, or
 - (b) in Scotland, to the Secretary of State,

for transmission to the appropriate authority in the Hague Convention country”.

(3) In subsection (2), for paragraphs (a) and (b) there shall be substituted the words “out of moneys provided by Parliament”.

(4) In subsections (3) and (4) respectively, for the word “reciprocating” there shall be substituted the words “Hague Convention”.

(5) For subsection (5) there shall be substituted–

“(5) A court in–

- (a) England and Wales or Northern Ireland may for the purpose of any proceedings in that court under this Part of this Act relating to a maintenance order to which this Part of this Act applies send to the Lord Chancellor, or
- (b) Scotland may for the purpose of such proceedings in that court relating to such an action, send to the Secretary of State,

for transmission to the appropriate authority in a Hague Convention country a request for a court in a Hague Convention country to take or provide evidence relating to such matters as may be specified in the request.”.

15.—(1) Section 15 shall be amended as follows.

(2) In paragraphs (a) and (c) respectively, for the word “reciprocating” there shall be substituted the words “Hague Convention”.

(3) The word “magistrate” in each place where it occurs shall be omitted.

16.—(1) Section 16 shall be amended as follows.

(2) In subsections (3) and (5)(a), for the word “reciprocating” there shall be substituted the words “Hague Convention”.

(3) In subsection (5)(a), the words “or (if earlier) the date on which it is confirmed by a court in the United Kingdom” shall be omitted.

(4) In subsection (5)(b), for the words “a court in the United Kingdom or (if earlier) the date on which the last order varying that order is confirmed by such a court” there shall be substituted the words “the registering court”.

17.—(1) Section 17 shall be amended as follows.

(2) In subsection (5A), for the word “reciprocating” there shall be substituted the words “Hague Convention”.

(3) For subsections (6) and (7) there shall be substituted–

“(6) A magistrates' court in Northern Ireland shall have jurisdiction to hear a complaint for the variation or revocation–

- (a) of a maintenance order made by such a court, and to which section 5 of this Act applies; or

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- (b) to hear a complaint for the variation of a registered order which is registered in that court,

if the defendant to the complaint is residing in a Hague Convention country and if the court would have had jurisdiction to hear the complaint had the defendant been residing in Northern Ireland and been served with a summons to appear before the court to answer the complaint.

- (7) Where the respondent to an application—
 - (a) for the variation or revocation of a maintenance order made by a magistrates' court, and to which section 5 of this Act applies; or
 - (b) for the variation of a registered order registered in a magistrates' court, 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 a Hague Convention country and that the requirements of section 5(4), (6) or (7) or section 9(3), as the case may be, have been complied with, the court may proceed to hear and determine the application at the time and place appointed for the hearing or for any adjourned hearing as if the respondent had appeared at that time and place.”.

18.—(1) Section 18 shall be amended as follows.

(2) In subsection (1)(b), (c), (d) and (f) respectively, for the word “reciprocating” there shall be substituted the words “Hague Convention”.

(3) Subsection (1)(e) shall be omitted.

19.—(1) Section 19 shall be amended as follows.

(2) In paragraphs (a), (b), (c) and (e) respectively, for the word “reciprocating” there shall be substituted the words “Hague Convention”.

(3) Paragraph (d) shall be omitted.

20. Section 20 shall not apply.

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

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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 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;" and
 - (j) the definition of "the responsible authority" shall be omitted.
- (3) Subsection (2) shall be omitted.
- 22.** Sections 22, 23 and 24 shall not apply.