

SCHEDULES

SCHEDULE 1

AMENDMENTS RELATING TO MAINTENANCE ORDERS REGISTERED IN OR CONFIRMED BY COURTS OF SUMMARY JURISDICTION OR REGISTERED IN THE HIGH COURT

The Maintenance Orders (Reciprocal Enforcement) Act 1972 (c. 18)

14. In section 34 (variation and enforcement of orders)—

- (a) at the beginning of subsection (1) (order registered in court other than court which made it variable as if made by registering court) insert “Subject to section 34B of this Act”;
- (b) after section 34A insert—

“Variation of orders by courts of summary jurisdiction in Northern Ireland.

34B.—(1) The provisions of this section shall have effect in relation to a registered order which is registered in a court of summary jurisdiction in Northern Ireland (whether or not the court made the order) in place of the following enactments, that is to say—

- (a) paragraphs (3) to (11) of Article 86 of the Magistrates' Courts (Northern Ireland) Order 1981; and
- (b) Article 22A of the Domestic Proceedings (Northern Ireland) Order 1980.

(2) The power of a court of summary jurisdiction in Northern Ireland to vary a registered order shall include power, if the court is satisfied that payment has not been made in accordance with the order, to exercise one of its powers under subsection (3) below.

(3) The powers of the court are—

- (a) the power to order that payments under the order be made directly to the collecting officer;
- (b) the power to order that payments under the order be made to the collecting officer by such method of payment falling within Article 85(7) of the Magistrates' Courts (Northern Ireland) Order 1981 (standing order, etc.) as may be specified;
- (c) the power to make an attachment of earnings order under Part IX of the Order of 1981 to secure payments under the order;

and in this subsection “collecting officer” means the officer mentioned in Article 85(4) of the Order of 1981.

(4) In any case where—

- (a) a registered order is registered in a court of summary jurisdiction in Northern Ireland, and
- (b) payments under the order are required to be made to the collecting officer in Northern Ireland, by any method of payment falling within Article 85(7) of the Magistrates' Courts (Northern Ireland) Order 1981 (standing order, etc.),

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an interested party may apply in writing to the clerk of petty sessions in which the order is registered for the order to be varied as mentioned in subsection (5) below.

(5) Subject to subsection (8) below, where an application has been made under subsection (4) above, the clerk, after giving written notice (by post or otherwise) of the application to any other interested party and allowing that party, within the period of 14 days beginning with the date of the giving of that notice, and opportunity to make written representations, may vary the order to provide that payments under the order shall be made in accordance with paragraph (a) of subsection (3) above.

(6) The clerk may proceed with an application under subsection (4) above notwithstanding that any such interested party as is referred to in subsection (5) above has not received written notice of the application.

(7) In subsections (4) to (6) above “interested party”, in relation to an order, means the debtor or the creditor.

(8) Where an application has been made under subsection (4) above, the clerk may, if he considers it inappropriate to exercise his power under subsection (5) above, refer the matter to the court which may vary the order by exercising one of its powers under subsection (3) above.

(9) In deciding, for the purposes of subsections (2) and (8) above, which of the powers under subsection (3) above it is to exercise, the court shall have regard to any representations made by the debtor.

(10) Paragraph (5) of Article 85 of the Magistrates' Courts (Northern Ireland) Order 1981 (power of court to require debtor to open account) shall apply for the purposes of subsection (3) above as it applies for the purposes of that Article but as if for subparagraph (a) there were substituted—

“(a) the court proposes to exercise its power under paragraph (b) of section 34B(3) of the Maintenance Orders (Reciprocal Enforcement) Act 1972, and”.

(11) In this section “creditor” and “debtor” have the same meaning as they have in Article 85 of the Magistrates' Courts (Northern Ireland) Order 1981.”.