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 and Affiliation Orders Act (Northern Ireland) 1966 (c. 35)

2. In section 11 (registration of orders), after subsection (5) insert—

"(5A) Where an order made by a court of summary jurisdiction is registered under this Part in the High Court, then—

(a) if payments under the order of the court of summary jurisdiction are required to be made (otherwise than to the collecting officer) by any method of payment falling within Article 85(7) of the Magistrates' Courts (Northern Ireland) Order 1981 (standing order, etc.), any order requiring payment by that method shall continue to have effect after registration;

(b) any order by virtue of which sums payable under the order of the court of summary jurisdiction are required to be paid to the collecting officer (whether or not by any method of payment falling within Article 85(7) of that Order) on behalf of the person entitled thereto shall cease to have effect.

(5B) Where an order made by the High Court or a county court is registered under this Part in a court of summary jurisdiction, then—

(a) if a means of payment order (within the meaning of Article 96A(7) of the Judgments Enforcement (Northern Ireland) Order 1981) has effect in relation to the order in question, it shall continue to have effect after registration; and

(b) in any other case, the court of summary jurisdiction shall order that all payments to be made under the order in question (including any arrears accrued before registration) shall be made to the collecting officer.

(5C) Any such order as to payment—

(a) as is referred to in subsection (5A)(a) may be revoked, suspended, revived or varied by an exercise of the powers conferred by section 13A; and

(b) as is referred to in subsection (5B)(a) or (b) may be varied or revoked by an exercise of the powers conferred by section 12(2) or section 13(2A) or (5A).

(5D) Where by virtue of the provisions of this section or any order under subsection (5B)(b) payments under an order cease to be or become payable to the collecting officer, the person liable to make the payments shall, until he is given the prescribed notice to that effect, be deemed to comply with the order if he makes payments in accordance with the order and any order under subsection (5B)(b) of which he has received such notice.".

3. In section 12 (enforcement of registered orders), in subsection (2) after "Article 98 of the Magistrates' Courts (Northern Ireland) Order 1981" insert

"as if for paragraphs (8B) to (8D) there were substituted—

"(8B) Upon the appearance of a person or proof of service of the summons on him as mentioned in paragraph (4) for the enforcement of an order to which this Article applies, the court or resident magistrate may vary the order by exercising one of the powers under sub-paragraphs (a) to (d) of Article 85(3).

(8C) In deciding which of the powers under sub-paragraphs (a) to (d) of Article 85(3) is to be exercised, the court or, as the case may be, a resident magistrate shall have regard to any representations made by the debtor and the creditor (within the meaning of Article 85).

(8D) Paragraph (5) of Article 85 shall apply for the purposes of paragraph (8C) as it applies for the purposes of that Article"."

4.—(1) In section 13 (variation of orders registered in courts of summary jurisdiction)—

(a) after subsection (2) insert—

"(2A) The power of a court of summary jurisdiction to vary a registered order under subsection (2) shall include power, if the court is satisfied that payment has not been made in accordance with the order, to vary the order by exercising one of its powers under sub-paragraphs (a) to (d) of Article 85(3) of the Magistrates' Courts (Northern Ireland) Order 1981.

(2B) Paragraph (5) of Article 85 of that Order shall apply for the purposes of subsection (2A) as it applies for the purposes of that Article.

(2C) In deciding which of the powers under sub-paragraphs (a) to (d) of Article 85(3) of that Order it is to exercise, the court shall have regard to any representations made by the debtor and the creditor (within the meaning of Article 85 of that Order).";

(b) after subsection (5) insert—

"(5A) Subject to the following provisions of this section, paragraphs (4) to (11) of Article 86 of the Magistrates' Courts (Northern Ireland) Order 1981 (power of clerk and court to vary maintenance orders) shall apply in relation to a registered order as they apply in relation to a maintenance order made by a court of summary jurisdiction (disregarding Article 25(2) of the Domestic Proceedings (Northern Ireland) Order 1980) but—

(a) as if in paragraph (8) after the words "the court which may" there were inserted "subject to paragraph (10)"; and

(b) as if for paragraphs (9) and (10) there were substituted the following paragraphs—

"(9) Paragraph (5) of Article 85 shall apply for the purposes of paragraph (8) as it applies for the purposes of that Article.

(10) In deciding which of the powers under sub-paragraphs (a) to (d) of Article 85(3) it is to exercise, the court shall have regard to any representations made by the debtor and the creditor".".

5. After section 13 (variation of orders registered in courts of summary jurisdiction) insert—

"**Variation etc., of orders registered in the High Court.**

13A.—(1) The provisions of this section shall have effect with respect to orders registered in the High Court other than maintenance orders deemed to be made by a court of summary jurisdiction by virtue of section 10(5), and the reference in subsection (2) to a registered order shall be construed accordingly.

(2) The High Court may exercise the same powers in relation to a registered order as are exercisable by the High Court under Article 96A of the Judgments Enforcement (Northern

Ireland) Order 1981 in relation to a qualifying periodical maintenance order (within the meaning of that Article) which has been made by the High Court, including the power under paragraph (7) of that Article to revoke, suspend, revive or vary—

(a) any such order as is referred to in paragraph (a) of section 11(5A) which continues to have effect by virtue of that paragraph; and

(b) any means of payment order (within the meaning of Article 96A(7) of the Order of 1981) made by virtue of the provisions of this section.”.

6. In section 14 (cancellation of registration), at the end insert—

“(5) On the cancellation of the registration of an order made by the High Court or a county court—

(a) any order which requires payments under the order in question to be made (otherwise than to the collecting officer) by any method of payment falling within Article 85(7) of the Magistrates' Courts (Northern Ireland) Order 1981 or Article 96A(5) of the Judgments Enforcement (Northern Ireland) Order 1981 (standing order, etc.) shall continue to have effect; and

(b) any order made under section 11(5B)(b) or by virtue of the powers conferred by section 12(2) or section 13(2A) or (5A) and which requires payments under the order in question to be made to the collecting officer (whether or not by any method of payment falling within Article 85(7) of the Magistrates' Courts (Northern Ireland) Order 1981) shall cease to have effect;

but, in a case falling within paragraph (b) of this subsection, until the defendant receives the prescribed notice of the cancellation he shall be deemed to comply with the order made by the High Court or, as the case may be, the county court if he makes payment in accordance with any such order as is referred to in that paragraph which was in force immediately before the cancellation and of which he has notice.

(6) On the cancellation of the registration of an order made by a court of summary jurisdiction—

(a) any order which requires payments under the order made by a court of summary jurisdiction to be made by any method of payment falling within Article 85(7) of the Magistrates' Courts (Northern Ireland) Order 1981 or Article 96A(5) of the Judgments Enforcement (Northern Ireland) Order 1981 (standing order, etc.) shall continue to have effect; and

(b) in any other case, payments shall become payable to the clerk of the original court;

but, in a case falling within paragraph (b) of this subsection, until the defendant receives the prescribed notice of the cancellation he shall be deemed to comply with the order of the court of summary jurisdiction if he makes payments in accordance with any order which was in force immediately before the cancellation and of which he has notice.”.