

SCHEDULES

SCHEDULE 1

FINANCIAL PROVISION FOR CHILDREN

Variation of orders for periodical payments etc. made by court of summary jurisdiction

8.—(1) Subject to sub-paragraphs (7) and (8), the power of a court of summary jurisdiction—

- (a) under paragraph 2 or 3 to vary an order for the making of periodical payments, or
- (b) under paragraph 6(6) to vary an order for the payment of a lump sum by instalments,

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 sub-paragraphs (a) to (d) of Article 85(3) of the Magistrates' Courts (Northern Ireland) Order 1981^{F1}.

(2) In any case where—

- (a) a court of summary jurisdiction has made an order under this Schedule for the making of periodical payments or for the payment of a lump sum by instalments, and
- (b) payments under the order are required to be made by any method of payment falling within Article 85(7) of the Magistrates' Courts (Northern Ireland) Order 1981 (standing order, etc.),

any person entitled to make an application under this Schedule for the variation of the order (in this paragraph referred to as “the applicant”) may apply to the clerk of petty sessions for the order to be varied as mentioned in sub-paragraph (3).

(3) Subject to sub-paragraph (5), where an application is made under sub-paragraph (2), the clerk, after serving written notice of the application on any interested party and allowing that party, within the period of 14 days from the date of the serving of that notice, an opportunity to make written representations, may vary the order to provide that payments under the order shall be made to the collecting officer.

(4) The clerk may proceed with an application under sub-paragraph (2) notwithstanding that any such interested party as is referred to in sub-paragraph (3) has not received written notice of the application.

(5) Where an application has been made under sub-paragraph (2), the clerk may, if he considers it inappropriate to exercise his power under sub-paragraph (3), refer the matter to the court which, subject to sub-paragraphs (7) and (8), may 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.

(6) Paragraph (5) of Article 85 of the Magistrates' Courts (Northern Ireland) Order 1981 (power of court to order that account be opened) shall apply for the purposes of sub-paragraphs (1) and (5) as it applies for the purposes of that Article.

(7) Before varying 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, the court shall have regard to any representations made by the parties to the application.

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(8) If the court does not propose to exercise its power under sub-paragraph (c) or (d) of paragraph (3) of Article 85 of the Magistrates' Courts (Northern Ireland) Order 1981, the court shall, unless upon representations expressly made in that behalf by the applicant for the order it is satisfied that it is undesirable to do so, exercise its power under sub-paragraph (b) of that paragraph.

(9) None of the powers of the court, or of the clerk of petty sessions, conferred by this paragraph shall be exercisable in relation to an order under this Schedule for the making of periodical payments, or for the payment of a lump sum by instalments, which is not a qualifying maintenance order (within the meaning of Article 85 of the Magistrates' Courts (Northern Ireland) Order 1981).

(10) In sub-paragraphs (3) and (4) “interested party”, in relation to an application made by the applicant under sub-paragraph (2), means a person who would be entitled to be a party to an application for the variation of the order made by the applicant under any other provision of this Schedule if such an application were made.

F1 [1981 NI 26](#)

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Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art. 45(2)(e) words repealed by 2022 c. 18 (N.I.) Sch. 5
- art. 7(2A)(ba) substituted for word by 2009 c. 24 Sch. 6 para. 26(2)
- art. 7(2B)(ba) substituted for word by 2009 c. 24 Sch. 6 para. 26(3)
- art. 8(4)(ha) applied by 2022 c. 18 (N.I.) s. 116
- art. 10(5A) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 26(b)
- art. 10(7A) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 26(c)
- art. 14A?-14F and cross-heading inserted by 2022 c. 18 (N.I.) s. 119(1)
- art. 14A(7) applied (with modifications) for specified purposes by 2022 c. 18 (N.I.) s. 26(6)
- art. 14C(1)(b) applied (with modifications) for specified purposes by 2022 c. 18 (N.I.) s. 26(7)(a)
- art. 14C(3)(4) excluded by 2022 c. 18 (N.I.) s. 26(7)(b)
- art. 18(4A) inserted by 2022 c. 18 (N.I.) s. 120(1)
- art. 18(6)-(6C) substituted for art. 18(6) by 2022 c. 18 (N.I.) s. 121(1)
- art. 22(3)(aa) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 29
- art. 26(1A) inserted by 2022 c. 18 (N.I.) s. 122(1)
- art. 26A inserted by 2022 c. 18 (N.I.) s. 123
- art. 27(7A) inserted by 2022 c. 18 (N.I.) s. 125(3)
- art. 27(8)(c) and word added by 2022 c. 18 (N.I.) s. 122(2)(b)
- art. 27(9A)-(9D) inserted by 2022 c. 18 (N.I.) s. 124
- art. 28(4) inserted by 2022 c. 18 (N.I.) s. 125(4)
- art. 28A inserted by 2022 c. 18 (N.I.) s. 126
- art. 28B inserted by 2022 c. 18 (N.I.) s. 127
- art. 33(9) added by 2022 c. 18 (N.I.) Sch. 3 para. 31(c)
- art. 34E(1)(d) and word inserted by 2022 c. 18 (N.I.) Sch. 3 para. 32(a)(iii)
- art. 34E(3)(4) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 32(b)
- art. 34F(1)(aa) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 33(a)(i)
- art. 34F(1A)-(1D) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 33(b)
- art. 34G inserted by 2022 c. 18 (N.I.) s. 129
- art. 34AA inserted by 2022 c. 18 (N.I.) s. 128(1)
- art. 34DA inserted by 2022 c. 18 (N.I.) s. 128(2)
- art. 34DB34DC inserted by 2022 c. 18 (N.I.) s. 128(3)
- art. 35(1)-(1B) substituted for art. 35(1) by 2022 c. 18 (N.I.) Sch. 3 para. 34(a)
- art. 35(5)(za) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 34(c)
- art. 35D(1)(aa)(ab) inserted by 2022 c. 18 (N.I.) s. 128(4)
- art. 35D(1A) inserted by 2022 c. 18 (N.I.) s. 130(1)
- art. 45(2)(e)(i)(ii) inserted by 2022 c. 18 (N.I.) s. 131(a)
- art. 45(2)(f)(i)-(iii) inserted by 2022 c. 18 (N.I.) s. 131(b)
- art. 45(3A)-(3C) inserted by 2022 c. 18 (N.I.) s. 130(4)
- art. 45(4A) inserted by 2022 c. 18 (N.I.) s. 130(6)
- art. 45(5A) inserted by 2022 c. 18 (N.I.) s. 130(7)
- art. 45A?? inserted by 2022 c. 18 (N.I.) s. 132
- art. 50A?? inserted by 2022 c. 18 (N.I.) s. 134(1)
- art. 53(1)(ba) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 38(b)
- art. 53(6A) inserted by 2022 c. 18 (N.I.) s. 135(3)
- art. 53(8)(za) inserted by 2022 c. 18 (N.I.) s. 135(4)
- art. 57(3A) inserted by 2022 c. 18 (N.I.) s. 119(3)

- art. 60(6)(ha) inserted by 2022 c. 18 (N.I.) s. 138
- art. 66(5A) inserted by 2022 c. 18 (N.I.) s. 120(3)
- art. 107(7)(c) added by 2022 c. 18 (N.I.) s. 139(4)
- art. 108(2A) inserted by 2022 c. 18 (N.I.) s. 140(3)
- art. 108(3)(c) and word added by 2022 c. 18 (N.I.) s. 140(4)(c)
- art. 112A inserted by 2022 c. 18 (N.I.) s. 141
- art. 159(1)(c) and word added by 2022 c. 18 (N.I.) s. 119(4)(b)
- art. 165(2)(k) inserted by 2011 c. 24 (N.I.) s. 95(3)
- art. 170(2)-(9A) modified by 2022 c. 18 (N.I.) s. 105(3)
- art. 170(9A) inserted by 2022 c. 18 (N.I.) s. 142
- art. 179(5A) inserted by 2022 c. 18 (N.I.) Sch. 3 para. 42
- art. 181(1) art. 181 renumbered as art. 181 (1) by 2022 c. 18 (N.I.) s, 143(3)
- art. 181(1) words substituted by 2022 c. 18 (N.I.) s. 143(4)
- art. 181(2) added by 2022 c. 18 (N.I.) s. 143(5)
- art. 183(2A) inserted by 2022 c. 18 (N.I.) s. 130(8)