

SCHEDULES

SCHEDULE 3

Article 41(1).

AMENDMENTS

The Land Registration Act (Northern Ireland) 1970 (c. 18)

In Schedule 6 (registration of certain burdens), in Part I, in paragraph 14A, after “Article 5(1) of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984” insert “or within the meaning of the Family Homes and Domestic Violence (Northern Ireland) Order 1997”.

In Schedule 11 (matters which require to be registered in the Statutory Charges Register), for paragraph 36 there shall be substituted the following paragraph—

“**36.** An occupation order under the Family Homes and Domestic Violence (Northern Ireland) Order 1997 to the extent that by virtue of paragraph 1(b) of Schedule 1 to that Order it renders liable to be set aside at the instance of the applicant for the order a disposition of any land in Northern Ireland which is specified in the order.”.

The Registration of Deeds Act (Northern Ireland) 1970 (c. 25)

In section 4(4A) (effect of registration), after “Article 5(1) of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984” insert “or within the meaning of the Family Homes and Domestic Violence (Northern Ireland) Order 1997”.

The Land Acquisition and Compensation (Northern Ireland) Order 1973 (NI 21)

In Article 30A (spouses having statutory rights of occupation)—

- (a) in paragraph (1), for “rights of occupation (within the meaning of Part II of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984” substitute “matrimonial home rights (within the meaning of the Family Homes and Domestic Violence (Northern Ireland) Order 1997”;
- (b) in paragraph (2)(a), for “rights of occupation” substitute “matrimonial home rights”.

The Matrimonial Causes (Northern Ireland) Order 1978 (NI 15)

In Article 6(4) (divorce not precluded by previous judicial separation), for “any of” substitute “either or both of” and for sub-paragraphs (aa) and (b) substitute the following sub-paragraph—

- “(b) any period during which there is an order made under the Family Homes and Domestic Violence (Northern Ireland) Order 1997 (or any statutory provision repealed by that Order) which—
 - (i) excludes the respondent from a dwelling-house which is, or was at any time, the matrimonial home, or
 - (ii) prohibits the exercise by the respondent of the right to occupy such a home”.

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The Rent (Northern Ireland) Order 1978 (NI 20)

In Article 14 (extended discretion of court in claims for possession of certain dwelling-houses)—

- (a) in paragraph (4A), for “rights of occupation under Part II of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984” substitute “matrimonial home rights under the Family Homes and Domestic Violence (Northern Ireland) Order 1997”;
- (b) in paragraph (4B), for “rights of occupation” substitute “matrimonial home rights”;
- (c) after paragraph (4B) insert the following paragraphs—

“(4C) Paragraph (4D) applies in any case where—

- (a) proceedings are brought for possession of a dwelling-house which is let on a protected tenancy or subject to a statutory tenancy;
- (b) an order is in force under Article 13 of the Family Homes and Domestic Violence (Northern Ireland) Order 1997 conferring rights on the former spouse of the tenant or an order is in force under Article 14 of that Order conferring rights on a cohabitee or former cohabitee (within the meaning of that Order) of the tenant;
- (c) that former spouse, cohabitee or former cohabitee is then in occupation of the dwelling-house; and
- (d) the tenancy is or may be terminated as a result of those proceedings.

(4D) In any case to which this paragraph applies, the former spouse, cohabitee or former cohabitee shall, so long as he or she remains in occupation, have the same rights in relation to, or in connection with, any such adjournment as is referred to in paragraph (1) or any such stay, suspension or postponement as is referred to in paragraph (2), as he or she would have if the rights conferred by the order referred to in paragraph (4C)(b) were not affected by the termination of the tenancy.”;

- (d) in paragraph (5), for “(4B)” substitute “(4D)”.

The Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (NI 8)

In Schedule 1 (proceedings for which legal aid may be given under Part II of that Order), in Part I, in paragraph 3 (proceedings in court of summary jurisdiction), at the end of sub-paragraph (b) add “or the Family Homes and Domestic Violence (Northern Ireland) Order 1997”.

The Magistrates' Courts (Northern Ireland) Order 1981 (NI 26)

In Article 88 (nature of domestic proceedings), after paragraph (df) insert the following paragraph—

- “(dg) under the Family Homes and Domestic Violence (Northern Ireland) Order 1997.”.

The Housing (Northern Ireland) Order 1983 (NI 15)

In Article 36(1) (rent not to be increased on account of tenant’s improvements), for sub-paragraph (d) substitute the following sub-paragraph

- “(d) if the tenancy has been transferred to a spouse, former spouse, cohabitee or former cohabitee of his by an order made under Schedule 1 to the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 or Schedule 2 to the Family Homes and Domestic Violence (Northern Ireland) Order 1997, at any time whilst the transferee is a secure tenant of that dwelling-house”.

In Article 47 (extended discretion of court in certain proceedings for possession)—

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- (a) in paragraph (5)(b), for “rights of occupation under Part II of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984” substitute “matrimonial home rights under the Family Homes and Domestic Violence (Northern Ireland) Order 1997”;
- (b) in paragraph (6), for “rights of occupation” substitute “matrimonial home rights”;
- (c) after paragraph (6) add the following paragraphs—
 - “(7) Paragraph (8) applies in any case where—
 - (a) proceedings are brought for possession of a dwelling-house which is let under a secure tenancy;
 - (b) an order is in force under Article 13 of the Family Homes and Domestic Violence (Northern Ireland) Order 1997 conferring rights on the former spouse of the tenant or an order is in force under Article 14 of that Order conferring rights on a cohabitee or former cohabitee (within the meaning of that Order) of the tenant;
 - (c) that former spouse, cohabitee or former cohabitee is then in occupation of the dwelling-house; and
 - (d) the tenancy is or may be terminated as a result of those proceedings.
 - (8) In any case to which this paragraph applies, the former spouse, cohabitee or former cohabitee shall, so long as he or she remains in occupation, have the same rights in relation to, or in connection with, any such adjournment as is referred to in paragraph (1) or any such stay, suspension or adjournment as is referred to in paragraph (2), as he or she would have if the rights conferred by the order referred to in paragraph (7)(b) were not affected by the termination of the tenancy.”.

The Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (NI 4)

For Article 26 (powers of the court in relation to certain tenancies of dwelling-houses) substitute the following Article—

“Powers of the court in relation to certain tenancies of dwelling-houses

26.—(1) This Article applies if—

- (a) an application is made by a party to a marriage for an order for financial relief; and
- (b) one of the parties to the marriage is entitled, either in his own right or jointly with the other party, to occupy a dwelling-house situated in Northern Ireland by virtue of a tenancy which is a tenancy mentioned in Schedule 2 to the Family Homes and Domestic Violence (Northern Ireland) Order 1997.

(2) The court may make in relation to that dwelling-house any order which it could make under Part II of that Schedule if a decree of divorce, a decree of nullity of marriage or a decree of judicial separation had been granted in Northern Ireland in respect of the marriage.

(3) The provisions of paragraphs 9, 10 and 13(1) in Part III of that Schedule shall apply in relation to any order made under this Article as they apply to any order under Part II of that Schedule.”.

The Insolvency (Northern Ireland) Order 1989 (NI 19)

In Article 309 (rights of occupation, etc., of bankrupt’s spouse)—

- (a) in paragraph (1), for “rights of occupation under the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984” substitute “matrimonial home rights under the Family Homes and Domestic Violence (Northern Ireland) Order 1997”;
- (b) in paragraph (2)—

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- (i) for “rights of occupation under the Order of 1984” substitute “matrimonial home rights under the Order of 1998”;
- (ii) in sub-paragraph (b), for “Article 4” substitute “Article 11”;
- (c) in paragraph (4), for “Article 4 of the Order of 1984” substitute “Article 11 of the Order of 1998”.

In Article 310 (rights of occupation of bankrupt)—

- (a) in paragraph (2), for “rights of occupation under the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984” substitute “matrimonial home rights under the Family Homes and Domestic Violence (Northern Ireland) Order 1997”;
- (b) for paragraph (3) substitute the following paragraph
 - “(3) The Order of 1998 has effect, with the necessary modifications, as if—
 - (a) the rights conferred by sub-paragraph (a) of paragraph (2) were matrimonial home rights under that Order,
 - (b) any application for leave such as is mentioned in that sub-paragraph were an application for an order under Article 11 of that Order, and
 - (c) any charge under sub-paragraph (b) of that paragraph on the estate or interest of the trustee were a charge under that Order on the estate or interest of a spouse.”;
- (c) in paragraph (4), for “Article 4 of the Order of 1984” substitute “Article 11 of the Order of 1998”;
- (d) in paragraph (5), for “Article 4 of the Order of 1984” substitute “Article 11 of the Order of 1998”.

The Children (Northern Ireland) Order 1995 (NI 2)

In Article 8 (residence, contact and other orders with respect to children), at the end of paragraph (4) add the following sub-paragraph

- “(h) the Family Homes and Domestic Violence (Northern Ireland) Order 1997”.