

SCHEDULE 2

Regulation 5

ENFORCEMENT OF INTERNATIONAL MAINTENANCE ORDERS – DRIVING DISQUALIFICATION ORDERS

**Application**

1. The provisions of this Schedule apply in relation to the enforcement of a maintenance decision relating to a child where that maintenance decision is registered for enforcement, or enforceable, by virtue of—

- F1(a) .....
- F1(b) .....
- F1(c) .....
- F1(d) .....
- F2(e) .....
- (f) the Hague Convention.

**Textual Amendments**

- F1** Sch. 2 para. 1(a)(b)(c)(d) omitted (31.12.2020) by virtue of [The Civil Jurisdiction and Judgments \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/479\)](#), reg. 1(1), **81(a)** (with regs. 92-95) (as amended by [S.I. 2020/1493](#), reg. 1(1), 5(2)-(5)); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in Sch. 2 para. 1 omitted (31.12.2020) by virtue of [The Jurisdiction and Judgments \(Family\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/519\)](#), reg. 1(1), **Sch. para. 40(7)** (with reg. 8) (as amended by [S.I. 2020/1574](#), reg. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)

**Interpretation**

2.—(1) In this Schedule—

“the 1981 Order” means the Magistrates' Courts (Northern Ireland) Order 1981;

F3 M1  
...

F3 M2  
...

F3 M3  
...

F3 M4  
...

“arrears” means a sum or sums payable to the creditor from the debtor which have fallen due under the terms of a maintenance decision and which the debtor has not paid;

“the court” means a magistrates' court;

“the creditor” means a person to whom a sum or sums of maintenance are owed by the debtor under the terms of a maintenance decision in relation to which an application under this Schedule is made, and includes—

- (a) a public body acting in place of an individual to whom maintenance is owed or to which reimbursement is owed for benefits provided in place of maintenance, to the extent that such a body may seek enforcement of a maintenance decision under the terms of an international agreement referred to in paragraph 1;
- (b) where there is in force an order that the sum or sums of maintenance be paid to the collecting officer<sup>F4</sup>..., that officer;

**Changes to legislation:** There are currently no known outstanding effects for the *The International Recovery of Maintenance (Hague Convention 2007 etc.) Regulations (Northern Ireland) 2012, SCHEDULE 2.* (See end of Document for details)

“the debtor” means the person who is liable to pay a sum or sums to the creditor under the terms of the maintenance decision in relation to which a complaint referred to in paragraph 3(1) of this Schedule is made;

“driving disqualification order” means an order under paragraph 4(1)(a) of this Schedule;

“driving licence” means a licence to drive a motor vehicle granted under Part II of the Road Traffic (Northern Ireland) Order 1981 <sup>M5</sup>;

“maintenance decision” means a maintenance obligation to which an international agreement listed in paragraph 1 applies and which is enforceable in a magistrates' court in Northern Ireland in the same manner as an order by that court to which Article 98(11) of the 1981 Order applies.

(2) In this Schedule—

(a) “child” means a person who—

(i) either—

(aa) has not attained the age of 16, or

(bb) has not attained the age of 20, and is receiving full time education or vocational training; and

(ii) is not or has not been party to a marriage, to a civil partnership or to an overseas relationship treated as a civil partnership under section 215 of the Civil Partnership Act 2004, and for the purposes of sub-paragraph (ii) “marriage” and “civil partnership” include a void marriage and a void civil partnership respectively;

(b) references to Article 98 of the 1981 Order are to that provision as modified by section 5(6A) of the Civil Jurisdiction and Judgments Act 1982 <sup>M6</sup>.

#### Textual Amendments

**F3** Words in Sch. 2 para. 2 omitted (31.12.2020) by virtue of [The Civil Jurisdiction and Judgments \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/479\)](#), regs. 1(1), **81(b)** (with regs. 92-95) (as amended by [S.I. 2020/1493](#), regs. 1(1), 5(2)-(5)); 2020 c. 1, Sch. 5 para. 1(1)

**F4** Words in Sch. 2 para. 2(1) omitted (coming into force in accordance with art. 1 of the amending Rule) by virtue of [The Justice Act \(Northern Ireland\) 2015 \(Single Jurisdiction\) \(Consequential Amendments and Revocations\) Order \(Northern Ireland\) 2016 \(S.R. 2016/317\)](#), arts. 1, **34(3)**; (as commenced (31.10.2016) by [S.R. 2016/387](#), art. 2(a) (with art. 3))

#### Marginal Citations

**M1** OJ No. L 299, 31.12.1972 p.32; OJ L304, 30.10.1978 p.1; OJ L 388, 31.12.1982, p.1; OJ L285, 3.10.1989, p.1; OJ C 15, 15.1.1997 p.1. A consolidated version is available at OJ C 27, 16.1.1998, p.1.

**M2** OJ No. L319, 25.11.88, p.9-48.

**M3** OJ No. L12, 16.1.2001, p.1-23.

**M4** OJ No. L339, 21.12.2007, p3.

**M5** [S.I. 1981/154](#) (NI 1).

**M6** Section 5(6A) inserted by [S.I. 1993/156](#) (NI.6).

#### Application for a driving disqualification order

3.—(1) Where a creditor makes a complaint under Article 98 of the 1981 Order for enforcement of a maintenance decision, the court may make a driving disqualification order.

(2) The court shall not make a driving disqualification order—

(a) in the absence of the debtor;

- (b) if it considers that, in a case in which it has power to do so, it is appropriate to—
  - (i) make an attachment of earnings order;
  - (ii) exercise its power under Article 98(8C)(b) of the 1981 Order; or
  - (iii) issue a warrant of distress for the purpose of recovering the arrears under Article 98(4) of the 1981 Order.

### **Making of a driving disqualification order**

4.—(1) If, but only if, the court is of the opinion that the failure to pay the arrears is due to wilful refusal or culpable neglect on the part of the debtor, it may—

- (a) make an order (a driving disqualification order) disqualifying the debtor from holding or obtaining a driving licence for such period specified in the order, not exceeding two years, as it thinks fit; or
- (b) make a driving disqualification order but suspend its operation until such time and on such conditions (if any) as it thinks just.

(2) The court shall not make a driving disqualification order unless it has enquired, in the presence of the debtor, as to—

- (a) the debtor's means;
- (b) whether the debtor needs a driving licence to earn his or her living;
- (c) whether the failure to pay the arrears is due to wilful refusal or culpable neglect on the part of the debtor.

5. A driving disqualification order shall state the amount of arrears in respect of which it is made and the period to which they relate and the amount may not exceed the arrears owing under the maintenance decision at the date on which the complaint referred to in paragraph 3 was made.

6. A court which makes a driving disqualification order shall require the person to whom it relates to produce any driving licence held by him or her, and its counterpart (within the meaning of Article 19D of the Road Traffic (Northern Ireland) Order 1981<sup>M7</sup>).

#### **Marginal Citations**

**M7** [S.I. 1981/154](#) (NI 1).

7.—(1) The court shall not, in relation to arrears—

- (a) make a driving disqualification order during the currency of a warrant committing the debtor to prison in respect of the same arrears;
- (b) issue a warrant committing the debtor to prison where a driving disqualification order has been made in respect of the same arrears but the period of disqualification specified in the driving disqualification order has not expired.

(2) In sub-paragraph (1) —

- (a) references to a warrant committing the debtor to prison include such a warrant which has been postponed;
- (b) references to a driving disqualification order include such an order which has been suspended in accordance with paragraph 4(1)(b); and
- (c) references to the currency of a warrant or to the period of disqualification specified in a driving disqualification order, are to be read as including references to the period of postponement of a warrant or suspension of disqualification respectively.

**Changes to legislation:** There are currently no known outstanding effects for the The International Recovery of Maintenance (Hague Convention 2007 etc.) Regulations (Northern Ireland) 2012, SCHEDULE 2. (See end of Document for details)

### **Variation, revocation and expiry of driving disqualification order**

8. On application by complaint by the creditor or the debtor, the court—
- (a) may, if part of the amount in respect of which the order is made is paid to any person authorised to receive it, make an order substituting a shorter period of disqualification, or make an order revoking the driving disqualification order, and
  - (b) shall, if the whole of the amount is so paid, make an order revoking the driving disqualification order.

9. Upon the making of a further complaint under Article 98 of the 1981 Order, the court may make a further driving disqualification order if the arrears in respect of which the driving disqualification order was made have not been paid in full when the period of disqualification specified in that order expires.

### **Notification to the Department**

10. Where a court—
- (a) makes a driving disqualification order; or
  - (b) makes an order varying or revoking a driving disqualification order,

it shall send notice of that fact and any driving licence and its counterpart produced to the court to the Department of the Environment.

### **Production of driving licence**

11. A lay magistrate may issue a summons to the debtor to produce to a magistrates' court any driving licence held by the debtor, and, where applicable, its counterpart, and issue a warrant for the debtor's arrest if the debtor does not comply.

**Changes to legislation:**

There are currently no known outstanding effects for the The International Recovery of Maintenance (Hague Convention 2007 etc.) Regulations (Northern Ireland) 2012, SCHEDULE 2.